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Appointments to fill vacancies in subsidiary organs and other appointments: appointment of the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal

Programme budget for the biennium 2018–2019

Administration of justice at the United Nations

Administration of justice at the United Nations

Report of the Secretary-General

Summary

The General Assembly, by its resolutions 61/261, 62/228 and 63/253, decided to establish an independent, transparent, professionalized, adequately resourced and decentralized system of administration of justice for resolution of work-related disputes at the United Nations. This system commenced operation on 1 July 2009.

In the present report, the Secretary-General, as the chief administrative officer of the Organization, provides information on the functioning of the system of administration of justice for the calendar year 2017 and offers observations with respect thereto.

In its resolution 72/256, the General Assembly requested the Secretary-General to report on a number of matters at its seventy-third session. The present report includes a consolidated response to those requests.

The Assembly is invited to take action as set out in paragraphs 119 and 120.

* A/73/150.

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I. Overview

1. The system of administration of justice at the United Nations was established by the General Assembly in its resolutions 61/261, 62/228 and 63/253 and came into operation on 1 July 2009. The system and the roles of stakeholders therein are described in annex I to the present report. The system flow chart is depicted in annex II.

2. The present report reviews the functioning of the formal system in 2017 and responds to specific requests of the General Assembly in resolution 72/256.

II. Review of the formal system of justice

A. Observations on the operation of the formal system of administration of justice

3. The aggregate data on incoming caseloads for the period from 2009 to 2017 for the management evaluation function in the Secretariat and funds and programmes, the United Nations Dispute Tribunal, the United Nations Appeals Tribunal and the Office of Staff Legal Assistance are reflected in tables 1, 4, 7 and 10 of the present report.

4. Review of these tables indicates that while there have been some fluctuations from year to year, the 2017 incoming caseload of the Dispute Tribunal compared with 2016 remained stable and substantial; the caseload of the management evaluation functions and the Office of Staff Legal Assistance, significantly increased, while the caseload of the Appeals Tribunal decreased.

5. As identified in earlier reports of the Secretary-General (A/69/227, A/70/187, A/71/164 and A/72/204), there is a nexus between decisions that affect large numbers of staff members and recourse by staff to the formal system; this continued to be the case in 2017, with several group or cluster cases relating to the implementation of a unified salary scale and changes to the post adjustment for several duty stations.

6. The significant increase in the workload of the Monitoring and Evaluation Unit and the Office of Staff Legal Assistance stems from the above-mentioned group cases.

7. The Monitoring and Evaluation Unit received its highest volume of requests in 2017, totalling 1,888. Of those requests, the Unit closed 1,726 by 31 December 2017 which, as a percentage of the total number of requests received, is in line with the output in previous years.

8. In 2017, the Office of Staff Legal Assistance received 4,147 new requests for assistance, the highest annual number to date; of those, 2,251 were closed during the year. This is a significant increase in productivity from previous years, which can be explained in part by an increase in human resources for the Office as a result of funding from the voluntary supplemental funding mechanism.

9. A substantial percentage of the 382 applications filed with the Dispute Tribunal in 2017 again related to benefits and entitlements (38 per cent), followed by appointment-related matters (23 per cent) and separation from service (18 per cent). These subject matter categories have featured prominently since the commencement of the system in 2009.

10. There continued to be a substantial number of self-represented staff members appearing before the Dispute Tribunal and the Appeals Tribunal, although the actual percentages fluctuated from year to year. In 2017, the percentage dropped sharply. The percentage of self-represented staff appearing before the Dispute Tribunal was the lowest recorded, at 31 per cent. Representation of staff by the Office of Staff Legal Assistance before the Dispute Tribunal increased to the highest percentage historically, at 57 per cent.

11. In 2017, efforts to resolve applications in the formal system through informal means continued, resulting in the resolution of a number of pending applications without the need for a final adjudication on the merits. Of the 2,143 requests for management evaluation received by the Secretariat and the separately administered funds and programmes in 2017, 74 per cent did not proceed to the Dispute Tribunal (see table 1), indicating that the management evaluation functions in both the Secretariat and the separately administered funds and programmes continue to play a crucially important role in providing resolution to staff members.

12. A total of 44 applications pending before the Dispute Tribunal were withdrawn in 2017 after informal resolution either between the parties, through mediation by the Office of the United Nations Ombudsman and Mediation Services or after Dispute Tribunal case management.

13. The Dispute Tribunal issued 100 judgments in 2017, which is the lowest number of judgments since the inception of the system, including in years when there were judicial vacancies. The number of applications that were disposed of also decreased: in 2017, a total of 268 applications were disposed of by the Dispute Tribunal, a reduction from 401 applications in 2016, 480 in 2015, 320 in 2014 and 325 in 2013. The number of 268 applications disposed of in 2017 corresponds to the number of applications disposed of in the early years of the system when jurisprudence was still developing: 98 for the second half of 2009, 236 in 2010, 271 in 2011 and 260 in 2012. The number of pending applications is increasing; with 372 applications brought over to 2018, this is the highest number of pending applications since the system was introduced.

14. The time it takes for the Dispute Tribunal to process a case has grown. When adding the number of applications pending on 1 January 2017 and the number of applications filed in 2017, then subtracting the number of cases disposed of in 2017, 58 per cent of cases were not disposed of in 2017 (congestion rate). The congestion rate for 2016 was lower, at 39 per cent. Applications filed for suspension of action are seen as having an impact on the work of the Dispute Tribunal and all offices and entities involved, especially if several requests are filed at the same time, such as when field missions are closing.[1]

15. In 2016, the General Assembly amended the statutes of the Dispute Tribunal and the Appeals Tribunal to allow for the authority of the President of each Tribunal to monitor the timely delivery of judgments. However, the Assembly may wish to consider whether further monitoring of the matter by the Assembly or the Internal Justice Council may be necessary. Such reporting by the Internal Justice Council would be consistent with its terms of reference to provide its views on the implementation of the system of administration of justice to the Assembly.

16. The number of appeals of Dispute Tribunal judgments before the Appeals Tribunal also dropped, from 148 in 2016 to 54 in 2017. By contrast, in 2017, the Appeals Tribunal continued to dispose of cases and to issue judgments in numbers that are consistent with prior years. As a result, the total number of cases pending before the Appeals Tribunal at the end of 2017 decreased to 40, the lowest number since 2009.

[1] In 2017, a total of 86 requests for suspension of action were received and decided by the Dispute Tribunal, while 100 judgments were delivered. For comparison, in 2016, the Dispute Tribunal received and disposed of 56 suspension of action requests and delivered 221 judgments. The number of suspension of action applications received and disposed of and the number of judgments delivered in the six previous years are as follows: 2015 — 85 applications and 126 judgments; 2014 — 57 applications and 148 judgments; 2013 — 109 applications and 181 judgments; 2012 — 45 applications and 208 judgments; 2011 — 74 applications and 219 judgments; 2010 — 21 applications and 217 judgments.

B. Management evaluation function

17. Management evaluation is the first step in the formal system of administration of justice and is described in annex I.

18. The number of management evaluation requests received in 2017 in the Secretariat (dealt with by the Management Evaluation Unit) and the funds and programmes is provided in table 1. Table 2 shows the disposal of management evaluation requests. Table 3 shows the outcome of applications filed with the Dispute Tribunal following management evaluation and decided or otherwise closed in 2017. The table does not include applications filed with the Dispute Tribunal that concern administrative decisions that were not subject to management evaluation.

Table 1
Management evaluation requests received, 2009–2017

Year	*Requests received*						
	Secretariat	*UNDP*	*UNHCR*	*UNOPS*	*UNFPA*	*UNICEF*	*UN-Women*
2009	184	20	36	1	N/A	2	–
2010	427	13	22	1	4	16	–
2011	952	17	77	4	5	33	–
2012	837	11	56	4	18	60	–
2013	933	31	57	4	10	18	–
2014	1 541	37	45	1	23	31	–
2015	873	33	130	1	16	18	–
2016	944	12	100	4	12	41	2
2017	1888[a]	54	110	44[b]	3	33	11
Total	**8 579**	**228**	**633**	**25**	**91**	**252**	**13**

Abbreviations: UNDP, United Nations Development Programme; UNFPA, United Nations Population Fund; UNHCR, Office of the United Nations High Commissioner for Refugees; UNICEF, United Nations Children's Fund; UNOPS, United Nations Office for Project Services; UN-Women, United Nations Entity for Gender Equality and the Empowerment of Women.

[a] The increase in 2017 vis-à-vis previous years was due primarily to the increased number of group requests for management evaluation, which include the following: (a) 578 requests submitted by Geneva-based staff pertaining to the decision of the International Civil Service Commission (ICSC) to change the post adjustment multiplier of Geneva-based staff members; (b) 106 requests filed by language assistants of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo contesting the abolition of their posts and issues relating to the abolition; (c) 224 requests filed by staff of the International Tribunal for the Former Yugoslavia contesting non-conversion to permanent appointment; (d) 71 requests filed by staff from various entities contesting payment of salaries in accordance with the unified salary scale approved by the General Assembly; (e) 60 former staff members of the African Union-United Nations Hybrid Operation in Darfur (UNAMID) contesting the decision of UNAMID to reject their request for financial compensation for psychological and moral damages as a result of alleged false allegations and defamation by UNAMID; and (f) 48 staff members of the United Nations Assistance Mission in Afghanistan (UNAMA) contesting the strategic review of UNAMA. It is notable that 742 of the total 1,888 requests in 2017 came from staff in peacekeeping missions. The majority of those requests related to retrenchment exercises.

[b] Includes 40 cases submitted by Geneva-based staff pertaining to the decision of ICSC to change the post adjustment multiplier of Geneva-based staff members.

Table 2
Disposition of management evaluation requests in 2017

Entity	*Requests decided in 2017*[a]	*Decisions upheld*	*Decisions reversed*	*Requests otherwise resolved*	*Decisions appealed to the United Nations Dispute Tribunal in 2017*	*Requests carried forward to 2018*[b]
Secretariat	1 808	1 201	29	578	480	162
UNDP	55	32	2	23	18	4
UNHCR	96	46	0	45	15	5
UNOPS	43[c]	41	0	2	40	1
UNICEF	26	21	3	2	1	9
UNFPA	3	3	0	0	1	2
UN-Women	11	10	0	1	5	0

[a] Includes cases received in 2017 and cases carried over from 2016 and earlier.
[b] Includes all open cases that were not resolved in 2017 and were carried over to 2018.
[c] Includes 40 cases submitted by Geneva-based staff pertaining to the decision of ICSC to change the post adjustment multiplier of Geneva-based staff members.

Table 3
Outcome of cases in the United Nations Dispute Tribunal in 2017, following management evaluation

Entity	*Total number of cases*[a]	*Settled or withdrawn*	*Upheld*	*Partially upheld*	*Overturned*
Secretariat	91	24	39	2	26
UNDP	7	4	2	0	1
UNHCR	15	8	3	0	2
UNOPS	1	0	1	0	0
UNICEF	4	2	2	0	0
UNFPA	13	12	1	0	0
UN-Women	0	0	0	0	0

[a] Represents all cases for which the entity represented the Secretary-General as respondent (excluding suspension of action applications) that were disposed of by the Dispute Tribunal, settled by the parties or withdrawn by the applicant in 2017, regardless of when the application was received.

C. United Nations Dispute Tribunal

1. Composition

19. In 2017, the composition of the Dispute Tribunal was as follows: full-time judges Teresa Maria da Silva Bravo (based in Geneva), Memooda Ebrahim-Carstens (based in New York) and Agnieszka Klonowiecka-Milart (based in Nairobi); half-time judges Alexander W. Hunter Jr. and Goolam Hoosen Kader-Meeran; and ad litem judges Rowan Downing (based in Geneva), Alessandra Greceanu (based in New York) and Nkemdilim Amelia Izuako (based in Nairobi).

20. By its resolution 72/256, the General Assembly extended the term of the three ad litem judge positions and the current incumbents to 31 December 2018.

21. In 2017, the Dispute Tribunal judges held one plenary meeting and workshop, in New York, from 15 to 26 May 2017. Judge Nkemdilim Amelia Izuako was elected

President for one year, commencing on 1 January 2018, taking over from Judge Downing, who was President from 1 July 2016 to 31 December 2017.

22. Further information about the Dispute Tribunal, including its jurisdiction, is provided in annex I.

2. Judicial activities

(a) Caseload

23. In 2017, 382 new applications were received. Of those, 290 were applications on the merits, 6 were applications for interpretation or revision of judgment, and 86 applications requested suspension of action, a provisional measure suspending the implementation of an administrative decision. An "application" includes any application, motion or other request to the Dispute Tribunal that triggers the opening of a numbered case by a Registry. Overall, 1,145 applicants were grouped by the Dispute Tribunal into a reduced number of applications, as their submissions included similar factual and legal issues.[2] In 2017, 268 applications were disposed of, 100 by judgments, 57 by various orders and 86 by suspension of action orders; the remaining 25 applications were moved through inter-Registry transfers to Nairobi (from Geneva, 24) and to Geneva (from Nairobi, 1). At 1 January 2017, 257 applications were pending before the Dispute Tribunal and on 31 December 2017, 372 applications were pending (an increase of 44 per cent).

24. The new applications included three notable groups: (a) two applications representing 225 applicants related to conversion of appointment issues; (b) applications filed at two duty stations of the Dispute Tribunal regarding the payment of salaries according to the unified salary scale approved by the General Assembly and related allowances;[3] and (c) a group of 335 applicants (including from funds and programmes) challenging, in 20 applications, changes to the post adjustment multiplier in Geneva.

25. Table 4 shows the number of applications received, disposed of and pending for previous years. For 2017, the applications received and disposed of are disaggregated into dispositive judgments and orders, suspension of action orders and transfers.[4] Requests for suspension of the implementation of a contested administrative decision require the Dispute Tribunal to consider the application within five days from the service of the application on the respondent. While not as comprehensive as applications on the merits, owing to the time constraint and the need for the Dispute Tribunal to review whether the decision was prima facie unlawful, particularly urgent and would cause irreparable damage,[5] such requests may require considerable work by the Tribunal and the Registries, resulting in a disruption in processing pending applications on the merits. Table 5 shows the breakdown by duty station.

[2] An application may include more than one applicant. Applications may be grouped according to the organizational affiliation of a staff member, the types of issues subject to challenge or other factors.

[3] Nine applications were disposed of by three judgments on 29 December 2017.

[4] The Dispute Tribunal makes inter-Registry transfers for a variety of reasons. The application is closed in one duty station and a new case is opened at another duty station with a new case number, and the old case number is closed. This reporting method was adopted in view of technical limitations of the current case management software.

[5] Article 13.1 of the rules of procedure of the Dispute Tribunal.

Table 4
United Nations Dispute Tribunal applications received, disposed of and pending, 2009–2017

Year	*Applications received*[a]	*Applications disposed of*	*Applications pending (end of year)*
2009	281	98	183
2010	307	236	254
2011	281	271	264
2012	258	260	262
2013	289	325	226
2014	411	320	317
2015	438	480	275
2016	383	401	257
2017	382	268 b	372

	Merits	*Suspension of action*	*Transfer*	*Merits*	*Suspension of action*	*Transfer*	*Merits*	*Suspension of action*	*Transfer*
	271	86	25	157	86	25	372	0	0
Total			**3 030**			**2 569**			–

[a] The figures in the table include applications for suspension of action to the Dispute Tribunal; the Dispute Tribunal received 86 such applications in 2017.

[b] Of the 268 applications disposed of, 177 were filed in 2017, 56 in 2016, 25 in 2015, 9 in 2014 and 1 in 2013.

Table 5
United Nations Dispute Tribunal applications received, disposed of and pending, by Registry, 2009–2017

	Applications received			*Applications disposed of*			*Applications pending (end of year)*		
Year	*Geneva*	*Nairobi*	*New York*	*Geneva*	*Nairobi*	*New York*	*Geneva*	*Nairobi*	*New York*
2009	108	74	99	57	19	22	51	55	77
2010	120	80	107	101	59	76	70	76	108
2011	95	89	97	119	59	93	46	106	112
2012	94	78	86	106	76	78	34	108	120
2013	75	96	118	77	103	145	32	101	93
2014	209	115	87	67	128	125	174	88	55
2015	182	190	66	285	127	68	71	151	53
2016	215	92	76	147	163	91	139	80	38
2017	127	137	118	108	100	60	158	118	96
Total	**1 225**	**951**	**854**	**1 067**	**834**	**789**	–	–	–

(b) Number of judgments, orders and court sessions

26. Table 6 shows the total number of judgments, orders and court sessions from 1 July 2009 to 31 December 2017, with a breakdown by duty station. Applications were disposed of by way of judgment or order; a judgment or order may dispose of more than one application.

Table 6
United Nations Dispute Tribunal judgments, orders and court sessions, by Registry, 2009–2017

	Judgments				*Orders*				*Court sessions*[a]			
Year	*Geneva*	*Nairobi*	*New York*	***Total***	*Geneva*	*Nairobi*	*New York*	***Total***	*Geneva*	*Nairobi*	*New York*	***Total***
2009	44	20	33	**97**	39	26	190	**255**	21	33	118	**172**
2010	83	52	82	**217**	93	248	338	**679**	54	116	91	**261**
2011	86	52	81	**219**	224	144	304	**672**	54	117	78	**249**
2012	79	65	64	**208**	172	183	271	**626**	24	88	75	**187**
2013	41	67	73	**181**	201	219	355	**775**	32	114	72	**218**
2014	37	67	44	**148**	197	275	355	**827**	31	119	108	**258**
2015	48	40	38	**126**	272	405	315	**991**	58	66	68	**192**
2016	64	107	50	**221**	250	501	285	**1036**	55	60	68	**183**
2017	35	46	19	**100**[b]	262	219	282	**758**[c]	97	71	43	**211**
Total	**517**	**516**	**484**	**1 517**	**1 710**	**2 220**	**2 695**	**6 619**	**426**	**784**	**721**	**1 931**

[a] A "court session" is an aggregate unit used to ensure consistency among the three Registries supporting the Dispute Tribunal in reporting on hearings. A hearing may consist of up to three daily court sessions (morning, afternoon, evening) and may be held over several days. The court sessions included 81 case management discussions.

[b] The 100 judgments disposed of 113 applications.

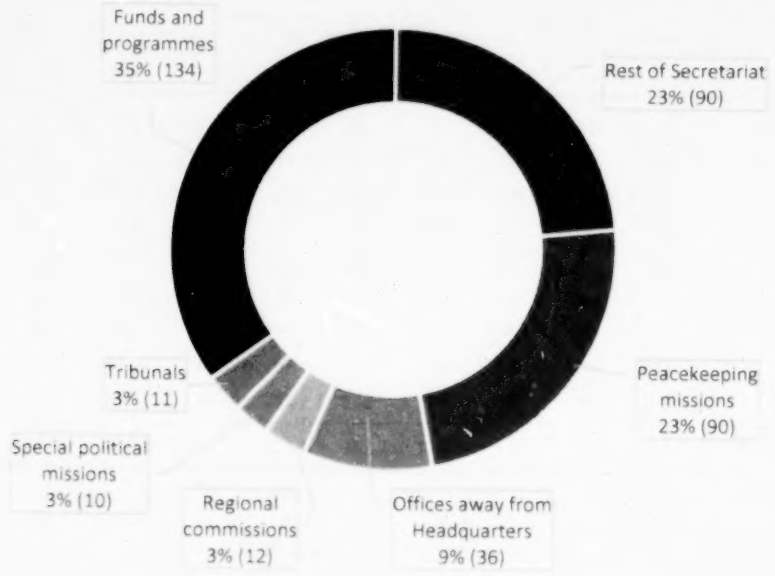
[c] This figure includes orders that disposed of 155 applications (including 86 suspension of action applications; 44 withdrawals; 25 inter-Registry transfers (technically counted as disposals, as one Registry supporting the Dispute Tribunal closes them and another one opens them); 467 orders relating to case management; 39 orders relating to extension of time; and 104 other orders.

(c) Sources of applications

27. The categories of applicants who filed in 2017 were as follows: Director (28); Professional (222); General Service (57); Field Service (33); Security (8); National Staff (4); and others (31).

28. The 382 applications received in 2017 were filed by staff members of a number of United Nations entities, as illustrated in figure I.

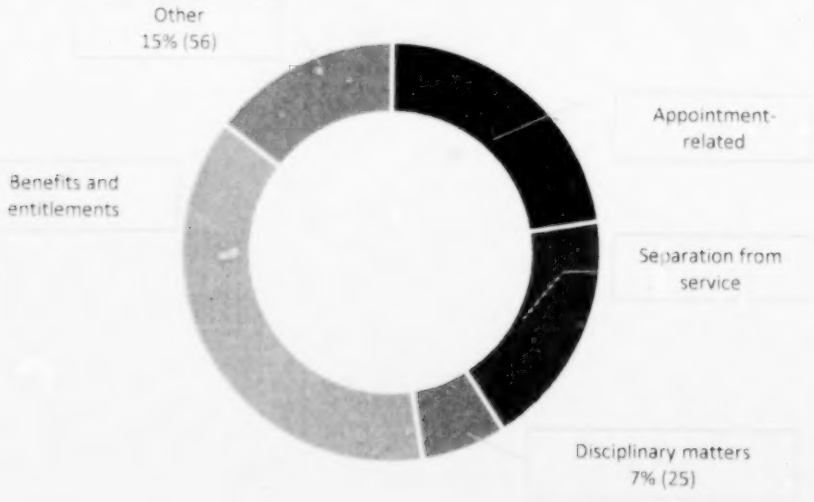
Figure I
Breakdown of applications by entity of the staff member


Funds and programmes 35% (134)
Rest of Secretariat 23% (90)
Peacekeeping missions 23% (90)
Offices away from Headquarters 9% (36)
Regional commissions 3% (12)
Special political missions 3% (10)
Tribunals 3% (11)

(d) Subject matter of applications

29. Applications received in 2017 fell into five main categories: (a) benefits and entitlements; (b) appointment-related matters (non-selection, non-promotion and other related matters); (c) separation from service (non-renewal and other separation matters); (d) disciplinary matters; and (e) other, as illustrated in figure II.

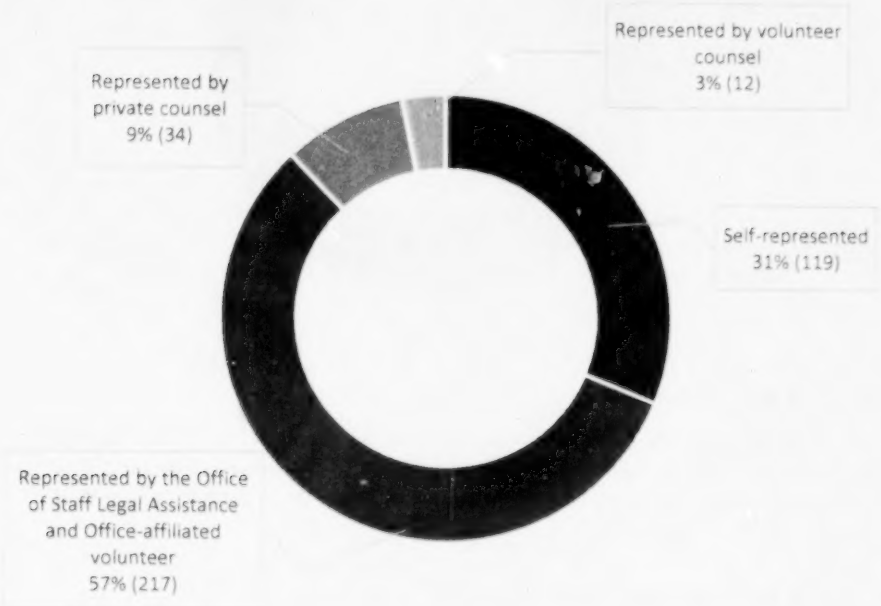
Figure II
Applications received by subject matter



(e) Representation of staff members

30. The Office of Staff Legal Assistance, volunteers who were either current or former staff members of the Organization and private counsel provided representation before the Dispute Tribunal in the majority of the applications received in 2017, as illustrated in figure III.

Figure III
Representation of staff members



(f) Informal resolution

31. As a result of case management by the Dispute Tribunal leading to informal settlement, referrals by the Tribunal to mediation by the Office of the United Nations Ombudsman and Mediation Services, withdrawal by applicants following informal settlement *inter partes*, or resolution by other means, a total of 44 applications pending before the Tribunal were resolved without the need for a final adjudication on the merits.

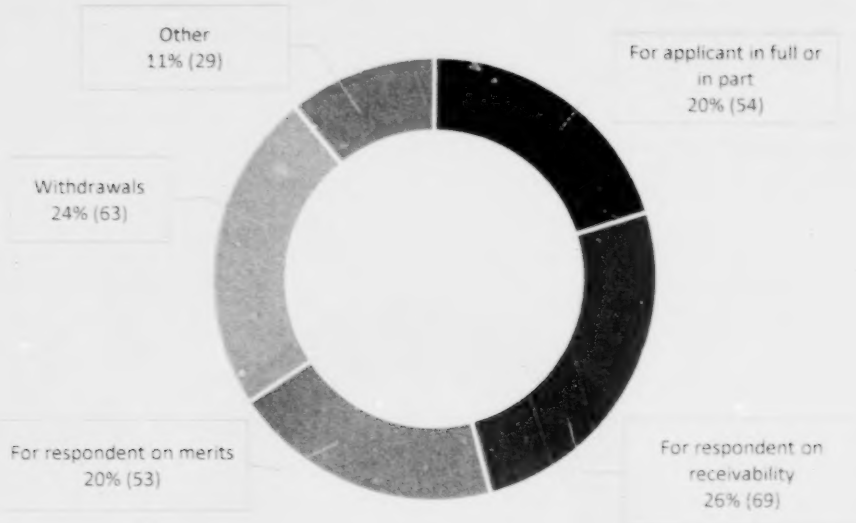
(g) Referral for mediation

32. In 2017, six applications were referred from the Dispute Tribunal under article 10.3 of its statute to the Office of the United Nations Ombudsman and Mediation Services for mediation. Nine applications pending in 2017 before the Dispute Tribunal were successfully mediated and the applications withdrawn in 2017.

(h) Outcomes

33. The outcomes of the 268 applications disposed of by the Dispute Tribunal in 2017, including applications for suspension of action, are illustrated in figure IV. The applications that were informally resolved or withdrawn while they were pending before the Tribunal are included under "Withdrawals".

Figure IV
Outcome of applications disposed of



(i) Referral for accountability

34. The Dispute Tribunal made three referrals for accountability under article 10.8 of its statute.[6] Those referrals have been brought to the attention of the Secretary-General, who has requested relevant officials of the Organization to take appropriate action to address the subjects of the referrals.

D. United Nations Appeals Tribunal

1. Composition

35. The Appeals Tribunal is currently composed of six judges: Judge John Raymond Murphy (South Africa), Judge Dimitros Raikos (Greece), Judge Sabine Knierim (Germany), Judge Richard Lussik (Samoa), Judge Deborah Thomas-Felix (Trinidad and Tobago) and Judge Martha Halfeld Furtado de Mendonça Schmidt (Brazil). The seventh, Judge Rosalyn M. Chapman (United States of America), resigned on 3 November 2017 and her position is presently vacant.

36. In 2017, the Appeals Tribunal elected its bureau for a one-year term commencing on 1 January 2018, with Judge John Raymond Murphy serving as President, Judge Dimitrios Raikos as First Vice-President and Judge Sabine Knierim as Second Vice-President.

37. Further information about the Appeals Tribunal, including its jurisdiction, is provided in annex I.

[6] Judgments UNDT/2017/004, UNDT/2017/027, UNDT/2017/087.

2. Judicial work

(a) Sessions

38. The Appeals Tribunal held three sessions in 2017: a spring session (20–31 March 2017), a summer session (3–14 July 2017) and a fall session (16–27 October 2017).

(b) Caseload

39. In 2017, 88 new cases[7] were received and 152 cases were disposed of. As at 1 January 2017, 96 cases were pending. On 31 December 2017, 40 cases remained pending. Table 7 shows the number of appeals received, disposed of and pending for 2017 and previous years, as well as the number of interlocutory motions received.

Table 7
Appeals Tribunal appeals received, disposed of and pending and interlocutory motions received, 2009–2017

Year	*Appeals received*	*Appeals disposed of*	*Appeals pending*	*Interlocutory motions received*
2009	19	–[a]	19	–
2010	167	95	91	26
2011	96	104	83	38
2012	142	103	122	45
2013	125	137	110	39
2014	137	146	101	84
2015	191	145	147	81
2016	170	221	96	45
2017	88	152	40[b]	40
Total	**1 135**	**1 103**	–	**398**

[a] The Appeals Tribunal did not hold a session in 2009; it held its first session in the spring of 2010.

[b] The number of appeals pending at the end of 2017 is 40. The number of appeals pending at the end of 2016 (96) is not accurate owing to a counting error that was made before the introduction of an electronic file management system.

(c) Sources of appeals

40. The 88 new cases filed in 2017 included 54 appeals against judgments of the Dispute Tribunal (32 filed by staff members and 22 filed on behalf of the Secretary-General); 6 appeals of decisions of the Standing Committee acting on behalf of the United Nations Joint Staff Pension Board; 17 appeals against judgments rendered by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) Dispute Tribunal (15 filed by staff members and 2 on behalf of the Commissioner-General); 1 appeal against a decision of the Registrar of the International Tribunal for the Law of the Sea; 1 appeal against a decision of the Secretary General of the International Civil Aviation Organization (ICAO); 1 appeal against a decision of the Registrar of the International Court of Justice; and 1 appeal against a decision of the Secretary-General of the International Maritime Organization (IMO). They also

[7] For the purpose of the present report, "cases" include appeals against Dispute Tribunal judgments, decisions taken by the heads of entities and the Pension Board and applications for interpretation, revision and correction.

included five applications for revision of Appeals Tribunal judgments and two applications for interpretation of an Appeals Tribunal judgment.

41. Table 8 shows the number of appeals received by the Appeals Tribunal, the percentage of Dispute Tribunal judgments appealed before the Appeals Tribunal, appeals disposed of, appeals pending and interlocutory motions received.

Table 8

United Nations Appeals Tribunal appeals received, percentage of Dispute Tribunal judgments appealed before the Appeals Tribunal, appeals disposed of, appeals pending and interlocutory motions received, 2009–2017

Year	*United Nations Dispute Tribunal judgments*	*Total number of appeals received*	*Cross-appeals received*	*Percentage of appeals against United Nations Dispute Tribunal judgments compared with total number of appeals*	*Total number of appeals disposed of*	*Total number of appeals pending at year-end*	*Interlocutory motions received*
2009	97	19	2	*Data require clarification*	N/A[a]	19	N/A
2010	217	167	6		95	91	26
2011	219	96	7		104	83	38
2012	208	142	8	77%	103	122	45
2013	181	125	[illegible]	75%	137	110	39
2014	148	137	10	71%	146	101	84
2015	126	191	0	82%	145	147	81
2016	221	170	8	87%	221	96	45
2017	100	88	4	61%	152	40	40
Total	**1 517**	**1 135**	**53**	–	**1 103**	–	**398**

[a] The Appeals Tribunal did not hold a session in 2009; it held its first session in the spring of 2010.

42. In 2017, the ratio of appeals against Dispute Tribunal judgments filed by staff members compared with those filed on behalf of the Secretary-General remained consistent with the ratio in prior years. In 2017, 59 per cent of the appeals were filed by staff members and 41 per cent were filed on behalf of the Secretary-General. From the beginning of the system through 2017, 68 per cent of the appeals were filed by staff members and 32 per cent were filed on behalf of the Secretary-General.

43. Figure V shows the breakdown of the appeals filed, by party, in 2017. Figure VI shows the outcome of appeals filed by staff members and on behalf of the Secretary-General against Dispute Tribunal judgments.

Figure V
Breakdown of the appeals filed, by party

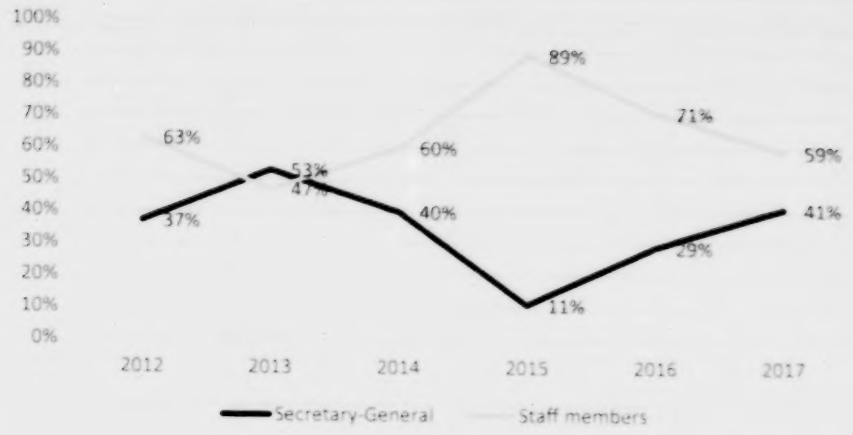
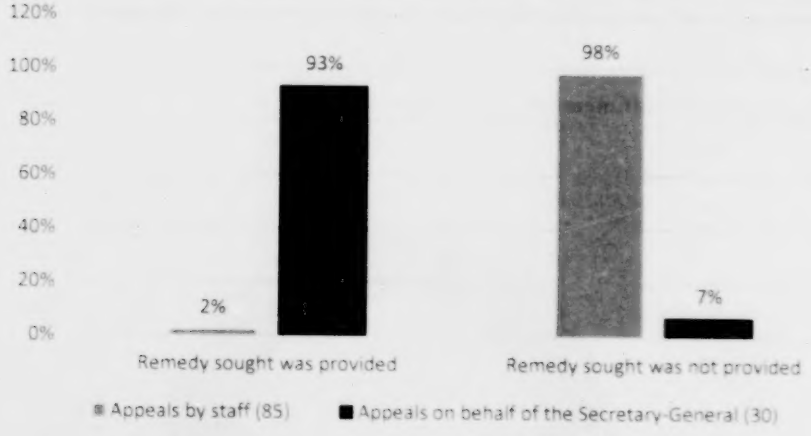


Figure VI
Outcome of appeals filed by staff members and on behalf of the Secretary-General against Dispute Tribunal judgments



44. Table 9 reflects a breakdown of Appeals Tribunal judgments. orders and hearings for the period from 2009 to 2017.

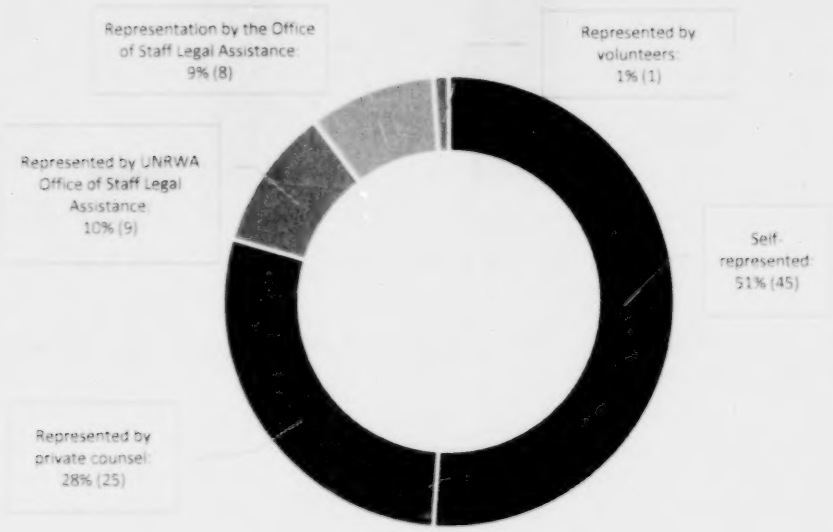
Table 9
United Nations Appeals Tribunal judgments, orders and hearings, 2009–2017

Year	*Judgments*	*Orders*	*Hearings*
2009	–	–	–
2010	102	30	2
2011	88	44	5
2012	91	45	8
2013	115	47	5
2014	100	42	1
2015	114	39	2
2016	101	27	2
2017	100	31	0
Total	**811**	**305**	**25**

(d) Representation of staff members

45. In 8 of the 87 appeals received during the reporting period, the Office of Staff Legal Assistance represented eight staff members.[8] In 9 of the appeals, staff members were represented by the UNRWA Office of Staff Legal Assistance; in 25 appeals, staff members were represented by private counsel, in 1 appeal by voluntary counsel, and in 45 appeals, staff members were self-represented, as illustrated in figure VII.

Figure VII
Representation of staff members for all appeals


Representation by the Office of Staff Legal Assistance: 9% (8)
Represented by volunteers: 1% (1)
Represented by UNRWA Office of Staff Legal Assistance: 10% (9)
Self-represented: 51% (45)
Represented by private counsel: 28% (25)

[8] The Appeals Tribunal counts appeals by appellant, differently from the Office of Staff Legal Assistance, which lists the number of staff members who requested any assistance in relation to a possible Appeals Tribunal appeal. The registration dates of Appeals Tribunal appeals and of requests to the Office of Staff Legal Assistance with regard to appeals may differ.

(e) Outcomes

46. In 2017, the Appeals Tribunal disposed of 148 cases by 100 judgments and closed four appeals by judicial order or administratively.

(f) Relief

(i) Appeals against United Nations Dispute Tribunal judgments

47. Overall, the Appeals Tribunal dismissed 85 appeals against Dispute Tribunal judgments, granted 23 appeals in full, granted 9 appeals in part and closed four cases on withdrawal. In five of the aforementioned cases, the Appeals Tribunal remanded the appeals to the Dispute Tribunal. With regard to cases filed by the Secretary-General, the Appeals Tribunal granted 20 appeals in full and 8 appeals in part and dismissed 2 appeals. As to appeals by staff members, the Appeals Tribunal granted 3 appeals in full and 1 appeal in part and dismissed 83 appeals.

48. The Appeals Tribunal vacated 19 Dispute Tribunal judgments in full and 14 in part and affirmed 82 judgments.

49. In seven cases, the Appeals Tribunal vacated the rescission order of the Dispute Tribunal and, in one case, it ordered rescission of the contested administrative decision on appeal. In one case, the Appeals Tribunal vacated the specific performance ordered by the Dispute Tribunal and, in one case, it ordered specific performance on appeal where none had been ordered by the Dispute Tribunal.

(ii) Appeals against decisions by the Secretary General of ICAO

50. The Appeals Tribunal dismissed one appeal against a decision by the Secretary General of ICAO.

(iii) Appeal against a decision by the Registrar of the International Court of Justice

51. The Appeals Tribunal granted in part one appeal against a decision by the Registrar of the International Court of Justice.

(iv) Appeal against a decision by Secretary-General of IMO

52. The Appeals Tribunal granted in part one appeal against a decision by the Secretary-General of IMO.

(v) Appeals against decisions of the Standing Committee of the United Nations Joint Staff Pension Board

53. The Appeals Tribunal dismissed four appeals against decisions of the Standing Committee of the United Nations Joint Staff Pension Board. It granted three appeals (including in one judgment in part) against decisions of the Standing Committee of the Board. In one of the aforementioned judgments, the Appeals Tribunal remanded the case to the Standing Committee of the Board.

54. The Appeals Tribunal remanded one case to the Standing Committee of the Board by judicial order.

(vi) Appeals against UNRWA Dispute Tribunal judgments

55. The Appeals Tribunal dismissed nine appeals against judgments of the UNRWA Dispute Tribunal. In one case, it granted the appeal and remanded the case to the UNRWA Dispute Tribunal. In two cases, the appeals were granted in part and in one of those cases, the case was remanded to the UNRWA administration. In one case, the appellant withdrew his appeal.

(g) Referral for accountability

56. The Appeals Tribunal made no referrals for accountability in 2017.

E. Office of Staff Legal Assistance

57. The Office of Staff Legal Assistance provides a wide range of legal services to staff, as detailed in annex I. Although established to provide assistance to staff using the formal system of internal justice (management evaluation, Dispute and Appeals Tribunals), staff are encouraged to visit the Office at the earliest stage of a dispute. This means that in practice, many issues are resolved prior to any formal process being adopted, either through informal settlement or because the Office provides the necessary advice to staff, which concludes the matter.

Workload

58. The workload of the Office has increased year-on-year since its establishment in 2009, as illustrated in table 10. In 2017, the Office received 4,147 new requests for assistance, with 232 matters carried over from the previous year. In 2017, the Office closed or resolved 2,483 requests through settlement.

Table 10
Treatment of requests for legal assistance received by the Office of Staff Legal Assistance, 2009–2017[a]

Year	*Summary advice*	*Management evaluation matters*	*Representation before the Dispute Tribunal*	*Representation before the Appeals Tribunal*	*Disciplinary matters*	*Other*	*Total*	*Pending requests*
2009	171	62	168	13	155	31	600	377
2010	309	90	77	39	70	12	597	261
2011	361	119	115	21	55	10	681	293
2012	630	198	96	31	46	28	1 029	234
2013	491	116	70	33	37	18	765	213
2014	798	210	102	15	44	11	1 180	222
2015	830	196	415	16	33	12	1 502	278
2016	1 006	319	71	322	35	3	1 756	232
2017	1 190	1 132[b]	1 761[c]	8	50	6	4 147	1 896
Total	**5 786**	**2 442**	**2 875**	**498**	**525**	**131**	**12 257**	–

[a] "Summary advice" refers to requests of varying nature, which often result in the resolution of the dispute. This involves gathering information, conducting legal research, identifying the strengths and weaknesses of a case and advising the client on options for seeking redress and likely outcomes. "Management evaluation" refers to requests involving consultations and provision of legal advice to staff members, drafting of management evaluation requests, holding discussions with management and negotiating settlements. In "disciplinary matters", the Office provides assistance to staff members regarding allegations of misconduct under the Staff Rules. "Representation before the United Nations Dispute Tribunal" and "representation before the United Nations Appeals Tribunal" refer to requests where the Office holds consultations and provides legal advice to staff members, drafts submissions on their behalf, provides legal representation at oral hearings, holds discussions with opposing counsel and, to the extent possible, negotiates settlements. "Other" refers to advice and assistance in submissions and processes before other formal bodies and representation of staff in mediation.

[b] There were 818 requests for management evaluation, which were grouped as 6 management evaluation requests; the actual total number of management evaluation requests filed was therefore 320. The Office counts each staff member client as a separate request for assistance.

[c] 1,529 individual applications were grouped into 22 cases by the Dispute Tribunal; the actual total number of Dispute Tribunal applications that proceeded was 254. The Office counts each staff member client as a separate request for assistance.

59. The increase in workload in 2017 can be explained in part by a number of group cases in which a large number of staff approached the Office in respect of the same administrative decision.

60. The majority (58 per cent) of requests for assistance in 2017 related to benefits and entitlements, reflecting some significant changes to the staff salary and benefits package that came into effect during the year.

61. While the Office receives a very large number of requests for assistance, it should be noted that only a small proportion of them proceed to the Tribunals. In 2017, the Office of Staff Legal Assistance filed 320 requests for management evaluation and 254 applications to the Dispute Tribunal and had 8 proceedings before the Appeals Tribunal. Overall, 65 per cent of cases (excluding the group cases) were resolved informally or otherwise disposed of without recourse to any formal mechanism at all.

F. Legal offices representing the Secretary-General as respondent

1. Representation before the United Nations Dispute Tribunal

Various legal offices in the Secretariat and separately administered funds and programmes[9]

62. Various legal offices in the Secretariat and the separately administered funds and programmes represent the Secretary-General in written and oral proceedings before the Dispute Tribunal, as detailed in annex I. In addition, as the representative of the Secretary-General, the offices are often engaged in efforts to resolve the dispute informally through settlement discussions, which at times include the Office of the United Nations Ombudsman and Mediation Services. When the Dispute Tribunal judgment becomes executable, the office concerned also ensures the implementation of the judgment, which means that the office continues to handle a case after adjudication by the Dispute Tribunal. During 2017, the offices representing the Secretary-General handled 639 applications brought by staff from the Secretariat and the separately administered funds and programmes.

2. Representation of the Secretary-General before the United Nations Appeals Tribunal

Office of Legal Affairs

63. As the central legal service of the United Nations, the Office of Legal Affairs provides legal advice to the Secretary-General, as well as the principal and subsidiary organs of the United Nations, including the departments and offices of the Secretariat and the separately administered funds and programmes. Such advice concerns all activities and operations of the Organization, including the system of administration of justice. As detailed in annex I, the functions of the Office in this area are

[9] The Secretariat: the Administrative Law Section in the Office of Human Resources Management at Headquarters (which comprises the Appeals Unit and the Disciplinary Unit), the Legal Unit in the Human Resources Management Service at the United Nations at Geneva and at the United Nations at Nairobi; the separately administered funds and programmes and other entities: United Nations Development Programme (UNDP), United Nations Environment Programme (UNEP), United Nations Population Fund (UNFPA), Office of the United Nations High Commissioner for Refugees (UNHCR), United Nations Children's Fund (UNICEF), United Nations Office for Project Services (UNOPS), United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), Economic Commission for Africa (ECA), United Nations Human Settlements Programme (UN-Habitat).

multifaceted and involve the analysis of all judgments of the Tribunals. The Office reviewed all 200 judgments of the Tribunals that were rendered in 2017.

64. In addition, the Office is responsible for representing the Secretary-General before the Appeals Tribunal for all United Nations entities. This involves, inter alia, the preparation of written submissions and oral advocacy at hearings. In 2017, the Appeals Tribunal rendered 76 judgments in cases in which the Secretary-General was a party.

III. Responses to questions relating to the administration of justice

A. Overview

65. In its resolution 72/256, the General Assembly made a number of requests for consideration at its seventy-third session. The responses to those requests are set out below.

B. Responses

Requests from the General Assembly

Outreach

66. In response to the requests contained in paragraphs 8, 10 and 11 of resolution 72/256 concerning outreach, the Office of Administration of Justice strengthened its coordination efforts in outreach matters and developed an outreach strategy, the implementation of which commenced in February 2018. The strategy defines objectives for the outreach efforts, available resources, the addressees of the strategy, the communication tools and the message.

67. The objective of the outreach strategy is to utilize a variety of media and approaches and to collaborate across offices, units and organizations within the internal justice system to provide more cohesive and holistic information on the role and functioning of the various parts of the system and the possibilities it offers to address work-related grievances. Particular attention is paid to field missions and offices to identify methods of disseminating information and raising awareness among staff in those locations without always undertaking mission travel. The Office of Administration of Justice is coordinating the implementation of the strategy and partnering with the Secretariat and the funds and programmes in order to disseminate information about the internal justice system to as many staff members and managers as possible. There is ongoing dialogue and engagement with staff representatives and management representatives to ensure that outreach efforts correspond to the needs of staff and managers alike for information.

68. Since January 2017, the Office of Administration of Justice, including the Office of the Executive Director, the Office of Staff Legal Assistance, the Principal Registrar and the Registries supporting the Appeals Tribunal and the Dispute Tribunal, sometimes in cooperation with staff representatives, have conducted more than 40 outreach briefings to groups of staff members and managers, including onboarding sessions for newly recruited staff, at a wide range of field and main locations, including Addis Ababa, Amman, Bangkok, Belize, Brindisi, Italy, Entebbe, Uganda, Geneva, Lebanon, Liberia, Nairobi, New York and Panama; and a webinar open to all staff members of the United Nations Development Programme (UNDP) and another for the United Nations Mission in South Sudan field mission. As part of the strategy,

information is provided, on a regular basis, on the intranets of organizations, in particular iSeek, which has featured a specific Office of Administration of Justice page since 25 October 2017 and has posted four articles with messages from the Executive Director of the Office of Administration of Justice on a range of topics. *UN Special*, the official magazine of international civil servants, which prints 10,000 copies, published an interview with the then President of the Dispute Tribunal and an article by each of the Dispute Registry, the Office of Staff Legal Assistance and the Office of the United Nations Ombudsman and Mediation Services in November 2017.

69. In addition to outreach efforts by the Office of Administration of Justice, the Office of the United Nations Ombudsman and Mediation Services conducted some 170 outreach activities in the Secretariat globally during 2017. The outreach activities, which included information sessions, presentations, workshops, panel discussions and skill-building activities, were carried out at Headquarters and the seven regional branches of the Office of the United Nations Ombudsman and Mediation Services. To varying degrees, all activities contain educational components on the informal and formal system of justice. In addition, the ombudsmen and mediators provide information about the justice system during each contact with a visitor as well as during one-on-one engagements with stakeholders and senior officials. The Office also maintains a webpage and distributes promotional materials with references to all components of the justice system. More information is available in chapter V of the report of the Secretary-General on the activities of the Office (A/73/167).

70. To ensure improved access to information about the internal justice system, the Office of Administration of Justice overhauled its website. The Office worked with the Department of Public Information to create a more modern site aligned with relevant United Nations guidelines and with content and design that link information on different resources in one place. One of the goals of the redesign project was to provide a more holistic view of the internal justice system, including more information about the informal component of the system in addition to the formal component, so that staff better understand the interconnection of the elements of the system and the various options for resolution. The website was rebranded from being an Office of Administration of Justice website to an administration of justice at the United Nations website, reflecting the system as a whole. The website can be accessed at www.un.org/en/internaljustice. The second key driver for the redesign was to facilitate access to the information through a range of design and technology choices to ensure access to information for all United Nations staff, including through mobile phones and regardless of location and level of network connectivity. Furthermore, the new website adheres to both the requirements of multilingualism at the United Nations[10] and the accessibility standards ensuring access to those with impaired vision. Content is also being developed for staff who prefer audible means of communication. These methods ensure that lack of sufficient language reading skills or perfect eyesight is not a hindrance to gaining access to the internal justice system information. A third key redesign consideration was adapting the language to an audience that does not have a legal background. To ensure that the language used is easily understood by staff members at large, the Office of Administration of Justice simplified the concepts without losing legal accuracy.

71. To ensure that all staff, including in the field, are made aware of the system and the dispute resolution options it offers, on 19 June 2018, the Chef de Cabinet requested the Secretariat, funds and programmes and other entities that use the system to inform their staff of the new website. The goal of this outreach exercise was to ensure that a broadcast message concerning the internal justice system and referring

[10] The website is being translated into all the official languages of the United Nations.

to the website for full information about the system would reach the inbox of each staff member. In a parallel effort, the Executive Director of the Office of Administration of Justice reached out to staff unions and associations across the entities and requested them to inform their constituencies about the information on the system available on the new website. In addition, the Office of Administration of Justice, through an article on the global Organization-wide intranet page, invited all staff members to visit the new website.

72. The handbook *A guide to resolving disputes: Administration of justice in the United Nations*, issued at the start of the system in 2009, has been revised to simplify the language and highlight key elements in the system, such as the timelines for various procedures in the formal process. This portable document is also being made available to staff electronically.

73. During early 2017, a number of information technology challenges were discovered in the Office of Administration of Justice search engine, including broken links to published judgments, random snippets of text in the preview and random words used as links instead of the file name. The Office worked with the Office of Information and Communications Technology to correct those issues and ensure that the search tool worked as intended. Furthermore, after feedback from various users, it became clear that there was a lack of understanding about how to use the search tool correctly, resulting in its limited use. The Office of Administration of Justice has since published a user guide on the website providing instructions on how to use this tool. In parallel, a project was initiated to make further enhancements to the current functionality. However, owing to resource issues, the Office of Information and Communications Technology was unable to implement the required changes. The recruitment of a consultant by the latter to support the needs of the Office of Administration of Justice is currently under way. To the extent possible, the Office of Administration of Justice also plans to expand the search engine to include legal digests of key judgments. The Office's two-person information technology team worked on a new web-based application for the Office of Staff Legal Assistance, consolidating both case data and case documents into a single system and providing online access across all Office of Staff Legal Assistance locations. The system is fully compliant with all security- and performance-related requirements, as well as the case management application for the Tribunals.

Regulatory framework

74. With respect to a more comprehensive understanding by staff of the rules, regulations, instructions and administrative issuances dealing with human resources, as encouraged by the General Assembly in paragraph 9 of its resolution 72/256, and the systemic issues as contemplated in paragraphs 20 and 21 of that resolution, the Secretary-General provides the following information. Pursuant to the report of the Secretary-General entitled "Shifting the management paradigm in the United Nations: ensuring a better future for all" (A/72/492) and the recent Assembly resolution 72/266 and, as further mentioned in the report of the Secretary-General on implementing a new management architecture for improved effectiveness and strengthened accountability (A/72/492/Add.2), the Office of Human Resources Management is undertaking a comprehensive review of the regulatory framework of the Organization, including staff regulations and rules, Secretary-General's bulletins, administrative instructions, information circulars and guidelines. The review is expected to provide the required "simplified/streamlined, easy to understand/implement" policy framework for the management of human resources that would underpin the future increased delegation of authority closer to the point of delivery called for by the Secretary-General and support the implementation of the reform proposals under all pillars (management, development, peace and security). The

required amendments to the Staff Regulations and Rules of the United Nations will be presented to the General Assembly for its consideration at the main part of the seventy-third session. In the context of such review, lessons learned from jurisprudence and the operational implementation of existing policies are being taken fully into account, and extensive two-way communication has been established to elicit continuous feedback on key organizational policies from all stakeholders, including departments and offices at Headquarters, regional commissions, offices away from Headquarters, peacekeeping and special political missions, United Nations funds and programmes and staff representatives, through regular meetings. Systemic issues identified by the Office of the United Nations Ombudsman and Mediation Services and presented in the report of the Secretary-General on the activities of the Office (A/72/138) are addressed in annex III.

75. With respect to paragraph 13 of resolution 72/256 wherein the General Assembly requested the Secretary-General to present a comprehensive analysis of all existing policies and provide recommendations on ways to improve protections for staff members who lodge cases before the Tribunals or who appear as witnesses, the Secretary-General notes that a new policy on protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations was published on 20 January 2017 (ST/SGB/2017/2). During 2017, the policy remained under close scrutiny by both management and staff representatives and, following joint collaborative efforts, was successfully and substantively revised: it was notably strengthened to reflect lessons learned and best practices in both public and private organizations on this matter. As a result, a revised Secretary-General's bulletin was promulgated in November 2017 (ST/SGB/2017/2/Rev.1). Since the beginning of 2018, the policy continues to be continuously reviewed for any improvements that may be needed by both management and staff representatives through the staff management consultation machinery. As part of the above-mentioned comprehensive review of the Organization's policy framework, all existing policies, including those related to this subject, are being reviewed and will be revised as appropriate.

Informal dispute resolution

76. Matters raised by the General Assembly in paragraphs 16 to 19 of resolution 72/256 are addressed in a separate report on the activities of the Office of the United Nations Ombudsman and Mediation Services (A/73/167).

Trends and statistics in the system

77. The observations by the Secretary-General in respect of the trends and statistics in the system, as requested in paragraph 25 of resolution 72/256, are provided in section II.A above.

Accountability of managers

78. In paragraph 26 of resolution 72/256, the General Assembly requested the Secretary-General to report on the accountability of managers whose decisions had been established to be grossly negligent, according to the applicable Staff Regulations and Rules of the United Nations, and which had led to litigation and subsequent financial loss. Accountability for gross negligence is one element of the overall framework of accountability of managers that includes disciplinary, criminal and administrative mechanisms. The practice of the Secretary-General in disciplinary matters and cases of possible criminal behaviour, including those involving managers, for the period from 1 July to 31 December 2017 is set out in document A/73/71. In addition, managers, like other staff members, are subject to administrative mechanisms, such as the performance appraisal system. The new leadership team of

the Secretary-General is subject to senior manager compacts, which were signed in April and May 2018.

79. Managers may also be required, pursuant to staff rule 10.1 (b), to reimburse the United Nations for financial loss suffered as a result of their grossly negligent actions that constitute misconduct. However, an adverse outcome in a Tribunal judgment leading to an award of compensation should not necessarily be understood as an instance of gross negligence leading to financial loss. The standard of gross negligence is a significant threshold. It is an extreme form of negligence, requiring a conscious and voluntary disregard of the need to use reasonable care. During the reporting period, there were no findings that a manager had been grossly negligent in a decision leading to litigation and subsequent financial loss.

Voluntary supplemental funding mechanism for the Office of Staff Legal Assistance

80. In paragraph 27 of resolution 72/256, the General Assembly extended the experimental voluntary supplemental funding mechanism for the Office of Staff Legal Assistance until 31 December 2018 and requested the Secretary-General to provide further information regarding the implications of the regularization of the mechanism in order to take a decision on the issue of the financing of the Office at its seventy-third session. The Assembly also indicated that regularizing the mechanism, if approved, would not affect the nature of the funding of the Office. The Secretary-General notes that the voluntary supplemental funding mechanism is currently experimental and approved on an annual basis. This means that in practice, staff cannot be hired on more than a temporary basis because of the uncertainty of continued funding. Extending the mechanism on an indefinite basis so that it would run from year to year until the Assembly decides otherwise would enable the recruitment of staff on a longer-term basis. This has many advantages: the Office of Staff Legal Assistance could offer contracts of a longer duration, which would broaden the field of candidates that the Office recruits from; it would help in retaining staff and preserving institutional knowledge; and, most importantly, clients of the Office would benefit greatly from continuity of counsel, a matter that has been commented on by the Tribunal. The Secretary-General also recalls the concern, which he has previously expressed, that the costs of the Office, as currently established and mandated, constitute "expenses of the Organization" to be borne by Member States in accordance with Article 17, paragraph 2, of the Charter of the United Nations. The Secretary-General accordingly requests that the mechanism be extended on an indefinite basis, without prejudice to a final determination as to whether expenditures incurred pursuant to the Office's mandate constitute "expenses of the Organization" within the meaning of the Charter.

81. In order to strengthen incentives for staff not to opt out of the voluntary supplemental funding mechanism and raise awareness among staff of the importance of financial contributions to the Office of Staff Legal Assistance, as encouraged in paragraphs 29 and 30 of resolution 72/256, on 22 January 2018, the Chef de Cabinet wrote to staff members in all entities that are part of the internal justice system, including the Secretariat, separately administered funds and programmes, regional commissions and others. In her communication, the Chef de Cabinet highlighted the invaluable assistance provided by the Office, noted the competence and efficacy of its lawyers and strongly encouraged contributions to the voluntary supplemental funding mechanism. The Executive Director of the Office of Administration of Justice undertook outreach activities and engaged with senior management and staff representatives to encourage support for the funding mechanism. The Office of Staff Legal Assistance also takes every opportunity to encourage staff to contribute,

including publishing articles on this subject on the intranet, distributing information and asking for contributions from staff during outreach activities whenever possible.

82. Data relating to staff contributions to the Office of Staff Legal Assistance and opt-out rates, as requested in paragraph 31 of resolution 72/256, are provided in annex IV.

Establishment of three new permanent judicial positions in the Dispute Tribunal

83. In paragraph 32 of resolution 72/256, the General Assembly requested the Secretary-General to provide further information, in consultation with the relevant stakeholders, regarding the implication of the establishment of three new permanent judges in the Dispute Tribunal, in lieu of ad litem judges, in order for a decision to be taken on this issue at the seventy-third session. Having consulted the relevant stakeholders, including the Tribunals,[11] the Secretary-General offers the views set out below.

84. The United Nations Dispute Tribunal is presently composed of one ad litem and one full-time judge at each of the three Tribunal duty stations and two half-time judges.

85. The appointment of ad litem judges was intended to be an ad hoc arrangement. The General Assembly decided in its resolution 63/253 to appoint three ad litem judges to the Dispute Tribunal as a transitional measure, for a period of one year, as from 1 July 2009. Notwithstanding the Assembly's original intention that the three ad litem judge positions would be a transitional measure, it has renewed these positions for a cumulative period of nine years and six months. Pursuant to resolution 72/256, the positions are currently extended until 31 December 2018.

86. Continuous extensions of ad litem Dispute Tribunal judge positions have legal implications that concern the regularity of the legal order of the system of administration of justice of the United Nations. Having three different types of judicial positions with different conditions of service has the potential to create issues in terms of the judges status and coherence within the Dispute Tribunal, which may also affect the Registries.

87. The statute and rules of procedure of the Dispute Tribunal contain no provisions governing the status or terms of appointment of ad litem judges. This lacuna has meant that one provision of the statute applicable to other judges has not been applied to ad litem judges: article 4.4 provides that judges of the Dispute Tribunal shall be appointed for one non-renewable term of seven years. However, through repeated mandate extensions by the General Assembly, one current ad litem judge exceeded seven years of service in July 2016 (and will have reached a cumulative term of nine and half years at the end of the current mandate on 31 December 2018) and another current ad litem judge would exceed seven years of service in April 2019 if that ad litem judge's appointment were to be extended for another year by the Assembly.

88. While further extensions of ad litem judges have the legal implications described above, the case data continue to demonstrate the need for two full-time judges at each duty station (see also A/72/204, paras. 139–141). The Secretary-General therefore proposes that three new permanent judicial positions be created in lieu of the ad litem judicial positions.

[11] The views of both the President of the Dispute Tribunal and the President of the Appeals Tribunal were invited; a response from one individual judge was received and duly taken into account.

89. This proposal bears no financial implications: regardless of whether the judges are ad litem or full-time, the related amounts of resource requirements would be the same, given that their remuneration level would remain the same. Similarly, there would be no difference in resource requirements related to the support staff. The only difference is that full-time judicial positions would be considered as required on a continuing basis, to the end of the seven-year term, whereas the ad litem judicial positions are considered a temporary requirement, subject to extension if required and approved. Support staff are provided to the ad litem judges through general temporary assistance-funded positions. If three new permanent judicial positions were created in lieu of the ad litem positions, the support staff positions would be converted from general temporary assistance positions to established posts in order to provide support to judges.

90. Should there be a consistent decline in the Dispute Tribunal's caseload following the creation of three new judicial positions, given the staggered appointment dates of the judges, the General Assembly would have the flexibility to evaluate the need for continuation of each judicial position when each term expires. This means that the Assembly may choose not to make appointments to vacant judicial positions if the caseload indicates that a decrease in the required number of judges is warranted.

Self-representation before the Dispute Tribunal

91. In relation to the continuing high degree of self-representation before the Dispute Tribunal, the General Assembly, in paragraph 35 of resolution 72/256, requested the Secretary-General to undertake an analysis of the issue and to report thereon at its seventy-third session. The Secretary-General notes that an applicant may be self-represented for many reasons, including by choice, if the Office of Staff Legal Assistance has declined representation, having determined, after review of the merits of the case, that the case has no reasonable chance of success, owing to the inability to afford private counsel, and because of ignorance of or unwillingness to accept the support of a volunteer. While many self-represented applicants submit well-prepared applications with relevant supporting documentation and evidence, that is not the case with most applications. Experience has shown that a self-represented applicant impacts the operational efficiency of the Registries by filing more voluminous submissions, less relevant documentation and incomplete and disorganized applications. They also have more questions and require more attention from the Registry. At the hearing stage, the identification and presentation of evidence may be more time-consuming.

92. As shown in table 11, 31 per cent, or 119 applicants, represented themselves before the Dispute Tribunal in 2017. This is the lowest number of self-represented applicants before the Dispute Tribunal since the commencement of the internal justice system. In contrast, there is a significantly lower number of self-represented staff members in disciplinary cases where the consequences for the applicant may be more severe. A total of 51 per cent, or 45 appeals, before the Appeals Tribunal were filed by self-represented staff members in 2017. Data from 2012 to 2017 show the highest rate of self-representation in 2014, at 53 per cent, and the lowest, in 2016, at 39 per cent. The range in the other years was between 42 per cent and 51 per cent.

Table 11
Percentage of incoming applications in which the applicant was self-represented, 2009–2017

Year	*United Nations Dispute Tribunal: all applications*	*United Nations Dispute Tribunal: applications concerning disciplinary matters*	*United Nations Appeals Tribunal: all applications*
2009	36	11	No reliable data
2010	34	18	No reliable data
2011	41	8	No reliable data
2012	42	6	42
2013	57	3	42
2014	60	3	53
2015	51	3	77[a]
2016	67	5	39
2017	31	6	51

[a] High percentage due to large group case.

93. Cases in which the applicant is represented by counsel take on average 425 days, whereas cases with self-represented applicants take an average of 246 days. The rate of success of applications by self-represented applicants, in full or in part, before the Dispute Tribunal, is 17 per cent compared with 32 per cent with representation by the Office of Staff Legal Assistance, 19 per cent with a volunteer affiliated with the Office of Staff Legal Assistance, 37 per cent with private counsel and 29 per cent with a volunteer staff member or former staff member. Self-represented applicants have the lowest rate of withdrawal of an application, at 11 per cent, compared with 33 per cent for cases represented by the Office, 26 per cent for cases represented by a volunteer affiliated with the Office and 20 per cent for cases represented by private counsel.

94. In the years when self-representation numbers have been highest, there have also been a number of cases challenging the same administrative decision (for example, cases that affect a large number of staff, such as downsizing, salary scale or post adjustment). More recently, where such group cases have been represented by the Office of Staff Legal Assistance, there has been a notable decrease in the related self-representation numbers. For instance, in 2017, when self-representation was 31 per cent, the Office of Staff Legal Assistance represented 56 per cent of applicants before the Dispute Tribunal.

Table 12
Cases in which the applicant was represented by the Office of Staff Legal Assistance, 2009–2017

Year	*Percentage*	*Number of cases*
2009	32	90
2010	30	93
2011	37	104
2012	37	96
2013	21	61
2014	25	104
2015	37	162
2016	21	79
2017	57	216

95. Given that a certain number of applicants will always choose to represent themselves, measures could be taken to enhance their understanding and ability to utilize the system and mitigate the efficiency concerns. These could include a procedural guide for self-represented applicants indicating the type of evidence to be submitted and how such evidence should be submitted. Increased use of standard forms by the Tribunals could also assist self-represented applicants in presenting their case and identifying relevant issues. Clearer rules of evidence and more established case management procedures could address the efficiency concerns raised by self-represented applicants. A more easily available list of volunteer counsel could also reduce the number of self-represented applicants.

Remedies available to non-staff personnel

96. In order to identify ways to further enhance access to grievance resolution mechanisms for non-staff personnel, it is necessary to take a holistic view of the situation of non-staff within the Organization. This includes acknowledging that there are different types of non-staff personnel, including consultants and individual contractors, gratis personnel, officials other than Secretariat officials, interns and United Nations Volunteers, each with their own terms and conditions of service. Remedies for different categories of non-staff personnel must be consistent with the relationship with the organization and reflect the rights and obligations commensurate with the particular category of personnel.

97. In its report on the use of non-staff personnel and related contractual modalities in the United Nations system organizations (A/70/685), the Joint Inspection Unit assessed the use of non-staff personnel and analysed the policies, regulations, contractual practices and associated managerial processes of United Nations system organizations in respect of such personnel and made related recommendations. The report also sets out critical insights into the use of consultants, along with the possible risks associated with the use of contracting and staffing in that regard. The Secretary-General and organizations of the United Nations system provided views on the recommendations (A/70/685/Add.1). The report of the Joint Inspection Unit was considered by the General Assembly at its seventy-first session (resolution 71/263). Data on the engagement of non-staff personnel are provided in the report of the Secretary-General on the composition of the Secretariat: gratis personnel, retired staff and consultants and individual contractors (A/73/79/Add.1).[12]

98. In his report on the administration of justice prepared for the seventy-second session, as requested by the General Assembly, the Secretary-General provided extensive information regarding remedies available to non-staff personnel (A/72/204, annex II). In paragraph 38 of resolution 72/256, the Assembly requested the Secretary-General to prepare a comprehensive analysis of that information with a view to informing the discussion at the seventy-third session.

[12] According to the report, in the 2016–2017 biennium, there were a total of 74,717 engagements of consultants and individual contractors in the Secretariat; 27,958 persons were engaged as consultants or individual contractors in the Secretariat. In addition, data obtained from the funds and programmes for the purposes of the present report are as follows: UNFPA — 1,363 individual contractors, volunteers, consultants and interns (in 2017); UNOPS — 4,181 consultants, individual contractors and interns (as at 31 December 2017); UNDP — 30,448 individual contractors, service contractors, United Nations Volunteers (total number of all United Nations Volunteers deployed by all United Nations entities, not only by UNDP) and interns (in 2017); UNICEF — 3,624 consultants and individual contractors (in 2017). UNICEF does not keep records of interns or gratis personnel; UN-Women — 1,256 individual contractors, service contractors and interns (as at 31 December 2017) and 949 consultants (in 2017).

99. Information presented in annex II to the above-mentioned report of the Secretary-General is summarized below.

(a) Sections A and B show that in the Secretariat and separately administered funds and programmes in the period from 2009 to 2016, there were a total of 84 cases of amicable settlement, including management evaluation or review, between the Organization and non-staff personnel, 10 notices of arbitration under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) and four formal complaints of discrimination, harassment, including sexual harassment, and abuse of authority against United Nations staff members (under ST/SGB/2008/5). In the same period, a total of 133 cases were brought against the Organization before national jurisdictions;

(b) Best practices in the Secretariat and the funds and programmes, as presented in section C, can be divided into two main groups: those that concern access to information (such as the practices of referring to dispute resolution mechanisms in the contract, providing easy access to information and translating relevant information into local languages) and those that concern access to remedies and other frameworks (such as providing access to the ombudsman and/or mediation services, management evaluation and legal officers and/or human resources personnel to assist and/or review decisions);

(c) A review of remedies available to non-staff personnel in specialized agencies and related bodies of the United Nations, as presented in section D, shows that out of 14 organizations that shared information, 11 organizations provide for amicable settlement, negotiations or conciliation (International Fund for Agricultural Development (IFAD), International Criminal Court, ICAO, IMO, International Organization for Migration (IOM), International Tribunal for the Law of the Sea, International Telecommunication Union (ITU), United Nations Educational, Scientific and Cultural Organization (UNESCO), United Nations Industrial Development Organization (UNIDO), World Tourism Organization (UNWTO), World Health Organization (WHO)); 12 organizations provide for arbitration (IFAD, International Criminal Court, ICAO, IMO, IOM, International Tribunal for the Law of the Sea, ITU, UNESCO, UNIDO, UNWTO, WHO, World Meteorological Organization); 2 organizations provide for ombudsman and/or mediation services (ICAO, IOM); 2 organizations provide access to a tribunal (International Labour Organization (ILO) and International Criminal Court); and 2 organizations provide for management review of administrative decision (UNWTO, World Bank Group). It should be noted that not all mechanisms are available to each category of non-staff personnel that exists in the respective organization.[13] In addition to dispute resolution mechanisms, several organizations provide other frameworks for non-staff personnel: five provide for protection against harassment and discrimination (ILO, International Criminal Court, IMO, IOM, UNIDO), two provide for access to the ethics office services (ICAO, UNIDO), one provides for protection against retaliation (UNIDO) and one indicated that it applied its anti-fraud policy to non-staff personnel (ILO).

100. The above remedies available to non-staff personnel in specialized agencies and related bodies of the United Nations correspond to the remedies available to non-staff personnel in the United Nations Secretariat and funds and programmes which provide

[13] For example, at the International Criminal Court, categories of non-staff personnel such as consultants, individual contractors, special advisers, interns and visiting professionals have no access to a tribunal; only elected officials (the judges, the prosecutor, the deputy prosecutor and the registrar) have access to the International Labour Organization (ILO) Administrative Tribunal; in addition, personnel seconded to the Court have access to the ILO Administrative Tribunal if so provided under the memorandum of understanding between the Court and the loaning organization.

for: amicable settlement (for all categories of non-staff personnel: consultants and individual contractors, United Nations Volunteers, interns and type II gratis personnel), arbitration (for consultants and individual contractors, United Nations Volunteers), ombudsman and mediation services (for all categories of non-staff personnel; only in funds and programmes) and management evaluation (for interns and type II gratis personnel). The Secretariat and funds and programmes provide for protection against discrimination, harassment, including sexual harassment, and abuse of authority, as well as protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations under applicable administrative issuances.

101. The remedies available for non-staff personnel are therefore in line with remedies available in other international organizations. It should be noted that the General Assembly decided, in its resolution 63/253, that staff members would have access to the Dispute Tribunal and the Appeals Tribunal and that interns, type II gratis personnel and volunteers would not have access to those Tribunals.

102. With respect to arbitration, which is the formal dispute resolution remedy for non-staff personnel engaged by the Secretariat, the funds and programmes and other international organizations (as reflected in document A/72/204, annex II, sects. A and D), the Secretary-General notes that such arbitration proceedings are currently conducted under the Arbitration Rules developed by UNCITRAL and adopted by the General Assembly in 1976 and 2010. This is also consistent with the decision of the Assembly that, in accordance with article VIII, section 29 of the Convention on the Privileges and Immunities of the United Nations,[14] the final resolution of disputes arising out of contracts to which the United Nations is party should be arbitration under the UNCITRAL Arbitration Rules.[15] In response to a request from the Assembly, the Secretary-General put forward a proposal for expedited arbitration proceedings for consultants and individual contractors (see A/66/275 and A/67/265). In its resolution 67/241, the General Assembly took note of the proposal for expedited arbitration proceedings and decided to remain seized of the matter.

103. The Secretary-General has further examined the issue of access to ombudsman and mediation services in the Secretariat. The Ombudsman for Funds and Programmes provides assistance to the non-staff personnel. Non-staff personnel accounted for 15 per cent of the total number of cases addressed by the Office of the Ombudsman for United Nations Funds and Programmes (21 cases brought by United Nations Volunteers, 20 cases by service contractors, 13 cases by consultants, 8 cases by individual contractors and 3 cases by interns).

104. At present, the mandate of the Office of the United Nations Ombudsman and Mediation Services does not cover non-staff personnel of the Secretariat; in practice, however, it does provide service to such personnel seeking assistance subject to its resources. In 2017, the Office received 225 cases of non-staff personnel, compared with 152 cases in 2016. This is an increase of 73 cases, or some 48 per cent. There were 161 non-staff personnel cases in 2015.

105. Recognizing that non-staff personnel form a substantial part of the workforce, especially in the field missions, the Secretary-General proposes to initiate a pilot project that would explicitly offer access to informal dispute-resolution services to non-staff personnel as part of the mandate of the Office of the United Nations Ombudsman and Mediation Services. In its initial stages, the pilot project can be implemented within the existing resources of the Office. However, should the pilot

[14] General Assembly resolution 22 (I) of 13 February 1946; United Nations *Treaty Series*, vol. 15, No. 1.

[15] General Assembly decision 50/503 of 17 September 1996 (see A/50/49 (Vol. II)).

project lead to an increase in the number of cases from non-staff personnel beyond 350 cases per year, additional resources would be needed for the project to continue. The pilot project would assist the Organization in determining the types of grievances that are raised by non-staff personnel, and the quantitative caseload.

IV. Other matters

Compensation awards

106. Information on compensation paid in 2017 in accordance with recommendations by the Management Evaluation Unit, compensation awarded by the Tribunals in 2017 and compensation paid in 2017 in respect of previous awards by the Tribunals is set out in annex V.

Jurisdiction of the United Nations Appeals Tribunal over decisions of the Standing Committee of the United Nations Joint Staff Pension Board

107. The Secretary-General brings to the attention of the General Assembly that the United Nations Joint Staff Pension Board will consider, at its upcoming sixty-fifth session, an amendment to article 48 "Jurisdiction of the United Nations Appeals Tribunal" of the Regulations of the United Nations Joint Staff Pension Fund. The amendment, if adopted by the Pension Board, will require a corresponding amendment to article 2.9 of the statute of the Appeals Tribunal, to be approved by the General Assembly. The sixty-fifth session of the Pension Board is scheduled to conclude on 3 August 2018. The Secretary-General will inform the Assembly of the outcome of the session and any corollary action by the Assembly that may be required.

Amendment to the rules of procedure of the United Nations Appeals Tribunal

108. In its resolution 66/237, the General Assembly amended article 7 of the statute of the Appeals Tribunal to establish a 30-day deadline for filing appeals of interlocutory orders. Since the amendment, the time limit has been consistently applied by the Appeals Tribunal. On 29 June 2018, the Appeals Tribunal made a corollary amendment to article 7 of its rules of procedure, as marked below in bold:

> "1. Appeals instituting proceedings shall be submitted to the Appeals Tribunal through the Registrar within:
>
> (*a*) 60 calendar days of the receipt by a party appealing a judgement of the Dispute Tribunal;
>
> **(*b*) 30 calendar days of the receipt by a party appealing an interlocutory order of the Dispute Tribunal**;
>
> (*c*) 90 calendar days of the date of receipt by a party appealing a decision of the Standing Committee acting on behalf of the United Nations Joint Staff Pension Board; or
>
> (*d*) A time limit fixed by the Appeals Tribunal under article 7.2 of the rules of procedure."

Pursuant to article 32.2 of the rules of procedure, the amendment operates provisionally until approved by the General Assembly. The Assembly is therefore requested to approve the amendment.

Roles of the Secretary-General and the Office of Administration of Justice in the internal justice system

109. The Secretary-General would like to underscore that the roles of the Secretary-General and the Office of Administration of Justice in the internal justice system are in line with the mandate and structure of the system as decided by the General Assembly in its resolutions 61/261, 62/228, 63/253 and 68/254. Furthermore, the role of the Secretary-General in the internal justice system is not limited to his status as a respondent in proceedings before the Tribunals. The Interim Independent Assessment Panel makes clear, in its report on the administration of justice, that "the Secretary-General is not only the respondent before the judicial bodies. He, even more importantly, has a direct interest — and in fact responsibility — as the chief administrative officer of the United Nations to ensure that justice is done and that the internal justice system functions properly. The same applies to the United Nations staff tasked to support that system." (A/71/62/Rev.1, para. 162).

110. The Secretary-General recalls that the Office of Administration of Justice was established with the rationale that a separate Office of Administration of Justice, with operational and budgetary autonomy, would ensure the institutional independence of the system of internal justice (A/61/815, para. 22). As such, the Office is not part of management. The General Assembly has expressly recognized the important role of the Office of Administration of Justice in maintaining the independence of the formal system of justice (resolution 65/251, para. 32).

111. The Secretary-General recommends that the General Assembly reaffirm the important roles of the Secretary-General and the Office of the Administration of Justice in the internal justice system.

Reporting on the system of administration of justice

112. The internal justice system is at the cusp of its tenth anniversary and is now well developed. As noted by the Interim Independent Assessment Panel, the objectives of the system, as set out in resolution 61/261, have been met to a great extent, although further improvements are possible (A/71/62/Rev.1, summary). The institutional framework of the system will be completed upon the decision of the General Assembly on the status of ad litem judges. Once that is done, and the voluntary supplemental funding mechanism for the Office of Staff Legal Assistance is extended on an indefinite basis, the Secretary-General proposes that all reports to the Assembly on the administration of justice agenda item be submitted on a biennial basis. The Office of Administration of Justice would, however, continue to issue internally its annual activity reports, which include aggregate data on the work of the Dispute Tribunal, the Appeals Tribunal and the Office of Staff Legal Assistance, as well as summaries of notable legal pronouncements by the Tribunals in the reporting year. The annual activity reports are accessible on the website administered by the Office (http://www.un.org/en/internaljustice/oaj/activity-reports.shtml).

V. Resource requirements

113. Resource requirements for the proposals described above for the year of 2019 for the biennium 2018–2019 amount to $1,495,400 (net of staff assessment). The estimated costs associated with the proposals are summarized in table 13, by budget section.

Table 13
Resource requirements, by programme budget section
(Thousands of United States dollars)

Budget section		2018-2019 initial appropriation	Additional requirements for 2019	2018-2019 revised estimates
		a	*b*	*c* = (*a* + *b*)
1.	Overall policymaking, direction and coordination	119 854.0	1 447.7	121 301.7
29B.	Department of Operational Support[a]	163 664.7	47.7	163 712.4
	Net additional requirements	**283 518.7**	**1 495.4**	**285 014.1**
36.	Staff assessment[b]	494 902.8	211.8	495 114.6
	Gross total all budget sections	**778 421.5**	**1 707.2**	**780 128.7**

[a] In accordance with resolution 72/266 B, section 29D, Office of Central Support Services, has been moved to section 29B, Department of Operational Support.

[b] Staff assessment amounts under columns *a* and *c* relate to all budget sections of the programme budget; the staff assessment amount under column *b* relates to budget sections under which additional resources are sought.

Proposed three permanent full-time judges in lieu of ad litem judges, conversion of general temporary assistance-funded positions to posts

114. With respect to the Dispute Tribunal and its Registries, for the reasons set out in paragraphs 83 to 90 above, the Secretary-General proposes that the General Assembly establish three permanent full-time judges in lieu of the three ad litem judges and convert the current staffing complement of six positions (1 P-3 and 1 General Service (Other level) in New York; 1 P-3 and 1 General Service (Other level) in Geneva; and 1 P-3 and 1 General Service (local level) in Nairobi) supporting the ad litem judges and funded from general temporary assistance to established posts.

115. The establishment of three permanent full-time judges and the conversion of the general temporary assistance-funded staff to posts in 2019, as explained in paragraph 90 above, would have the same related amounts of resource requirements as the extension of the current ad litem judges and the staff supporting them: it would entail additional resource requirements in 2019 (as the ad litem judges and the staff supporting them have been extended until 31 December 2018) of $1,447,700 under section 1, Overall policymaking, direction and coordination, including for: (a) the conversion from general temporary assistance-funded positions to established posts for the six support staff ($691,400); (b) the establishment of the three permanent full-time judges in lieu of the ad litem judges in each of the locations of the Dispute Tribunal, in New York, Geneva and Nairobi ($734,100); and (c) operational costs, including contractual services relating to central data-processing services ($15,400), communications ($3,200) and supplies and materials ($3,600).

116. The proposals would also entail additional resource requirements of $47,700 under section 29B, Department of Operational Support, for the rental of premises.

VI. Timeline for implementation

117. The timeline for implementation will depend on the outcome of the deliberations of the General Assembly.

118. In the event that the General Assembly approves the establishment of three new permanent Dispute Tribunal judgeships to replace the ad litem judges, lead time would be required for the Internal Justice Council to nominate candidates and for the

Assembly to hold elections, in which case the Secretary-General recommends that the current ad litem judicial positions, together with the Dispute Tribunal Registry staff who support them, be extended for the interim period in order to keep abreast of the caseload until 31 December 2019 and that consideration be given to the extension of the current incumbent ad litem judges in view of the statutory limitation of judicial appointments. The Secretary-General also recommends that the Council consider creating a formal roster of candidates that it finds qualified and suitable for judicial positions so that it can swiftly make recommendations to fill judicial posts at either Tribunal without the need to undertake a full recruitment exercise.

VII. Conclusions and actions to be taken by the General Assembly

119. **The Secretary-General considers that the proposals and recommendations contained herein would enhance the effectiveness of administration of justice at the United Nations.**

120. **Accordingly, the Secretary-General requests the General Assembly:**

(a) **To extend on an indefinite basis the voluntary supplemental funding mechanism for the Office of Staff Legal Assistance starting on 1 January 2019 without prejudice to a final determination as to whether expenditures incurred pursuant to the mandate of the Office constitute "expenses of the Organization" to be borne by Member States in accordance with Article 17, paragraph 2, of the Charter of the United Nations;**

(b) **To approve the addition of three permanent full-time judges in lieu of the ad litem judges to the Dispute Tribunal and amend article 4.1 of the statute of the Tribunal to read "The Dispute Tribunal shall be composed of six full-time judges and two half-time judges";**

(c) **To approve the extension of the three ad litem judge positions, as well as the support staff, and consider, for reasons set out in paragraphs 86 to 88, whether the current incumbent ad litem judges should be extended in view of the statutory limitation of judicial appointments, pending the nomination of candidates by the Internal Justice Council and the election of the aforementioned three permanent full-time judges by the Assembly;**

(d) **As an alternative to subparagraphs (b) and (c) above, in the event that the Assembly does not approve the addition of three permanent full-time judges in lieu of the ad litem judges to the Dispute Tribunal, approve the extension of the three ad litem judge positions and consider, for reasons set out in paragraphs 86 to 88, whether the current incumbent judges should be extended in view of the statutory limitation of judicial appointments for a period of 12 months, from 1 January to 31 December 2019, in order to allow the Tribunal to keep abreast of its caseload;**

(e) **To approve the establishment, starting on 1 January 2019, of three additional Legal Officer posts (P-3), one in each of Geneva, Nairobi and New York, two Legal Assistant posts (General Service (Other level)), one in each of Geneva and New York, and one Legal Assistant post (General Service (local level)) in Nairobi, in the Dispute Tribunal Registries to support the three new permanent full-time judges in lieu of the temporary staff currently supporting the three ad litem judges;**

(f) **As an alternative to subparagraph (e) above, to approve the extension for 2019 of the temporary staff currently supporting the three ad litem judges,**

consisting of three positions of Legal Officer (P-3), one in each of Geneva, Nairobi and New York, two positions of Legal Assistant (General Service (Other level)), one in each of Geneva and New York, and one position of Legal Assistant (General Service (local level)) in Nairobi;

(g) **To approve the amendment to article 7 of the rules of procedure of the Appeals Tribunal that is marked below in bold:**

"1. Appeals instituting proceedings shall be submitted to the Appeals Tribunal through the Registrar within:

(*a*) 60 calendar days of the receipt by a party appealing a judgement of the Dispute Tribunal;

(*b*) 30 calendar days of the receipt by a party appealing an interlocutory order of the Dispute Tribunal;

(*c*) 90 calendar days of the date of receipt by a party appealing a decision of the Standing Committee acting on behalf of the United Nations Joint Staff Pension Board; or

(*d*) A time limit fixed by the Appeals Tribunal under article 7.2 of the rules of procedure."

(h) **To reiterate that the Secretary-General has a responsibility, as the chief administrative officer of the United Nations, to ensure that the internal justice system of the Organization functions properly and, in the same capacity, to report to the Assembly on the operation of the system; and that the Office of Administration of Justice is independent, with operational and budgetary autonomy, mandated to maintain the institutional independence of the formal system of internal justice;**

(i) **To decide, subject to the creation of three permanent judicial positions in lieu of ad litem judges and the extension, on an indefinite basis, of the voluntary supplemental funding mechanism, that all reports on the administration of justice agenda item shall be submitted biennially, with the first biennial reports being submitted at the seventy-fourth session;**

(j) **To invite the Internal Justice Council to consider creating a formal roster of fully qualified and suitable candidates for judicial positions so that it can swiftly make recommendations to fill judicial posts at either Tribunal without the need to undertake a full recruitment exercise;**

(k) **Approve additional resources as presented in table 13 in the amount of $1,495,400 (net of staff assessment);**

(l) **Appropriate an additional amount of $1,495,400 (net of staff assessment) under section 1, Overall policymaking, direction and coordination ($1,447,700) and section 29B, Department of Operational Support ($47,700), of the programme budget for the biennium 2018–2019, as well as an additional amount of $211,800 under section 36, Staff assessment, to be offset by an equivalent amount under income section 1, Income from staff assessment, for the biennium 2018–2019. The amount of $1,495,400 would represent a charge against the contingency fund for the biennium 2018–2019.**

Annex I

Overview of the internal justice system and stakeholders in the system

A. Introduction

1. The present internal system of administration of justice addressing employment-related disputes at the United Nations was established by the General Assembly in its resolutions 61/261, 62/228 and 63/253. The system came into operation on 1 July 2009. The Assembly decided, in its resolution 61/261, that the system would be independent, transparent, professionalized, adequately resourced and decentralized and that it would operate in a manner consistent with the relevant rules of international law and the principles of the rule of law and due process to ensure respect for the rights and obligations of staff members and the accountability of managers and staff members alike.

2. The system comprises two avenues for the resolution of employment-related disputes: informal and formal.

3. The informal component of the system refers to confidential, off-the-record and impartial assistance by the Office of the United Nations Ombudsman and Mediation Services to help reach informal resolution of concerns and disputes relating to employment at any stage, even after formal mechanisms have been pursued.

4. The formal component refers to the objective and reasoned management review of a contested administrative decision and to a two-tier judicial structure: the first instance United Nations Dispute Tribunal and the appellate United Nations Appeals Tribunal.

5. Whether action is taken within the formal or informal component, or both, staff members of the United Nations have the right to legal assistance and advice from the Office of Staff Legal Assistance which, in cases with a reasonable chance of success, also provides legal representation before the Tribunals.

6. In addition to the informal and formal methods of resolving work-related disputes, there are also other sources of support that staff members can turn to if they are seeking resolution of a work-related dispute or having a problem at the office. These include peer support, programme managers, human resources, ethics offices, staff unions and associations, and the Staff Counsellor.

B. Management evaluation function

7. The first step in the formal process for contesting an administrative decision alleged to be in non-compliance with the staff member's terms of appointment or contract of employment is to request management evaluation. In the United Nations Secretariat, management evaluations are carried out by the Management Evaluation Unit in the Office of the Under-Secretary-General for Management. The separately administered United Nations funds, programmes and entities carry out management evaluations through their own administrative structures.

8. Management evaluation involves an objective review of the contested decision by legal staff who were not part of the decision-making process. Based on this review, the Management Evaluation Unit or the relevant office in the separately administered funds, programmes and entities provides a recommendation to the Under-Secretary-General for Management or the corresponding management executive in the United Nations fund, programme or entity, who decides if the contested administrative

decision was made in accordance with the legal framework of the Organization. If the management evaluation concludes that the contested decision was made improperly, the staff member is provided with a remedy, which could include changing the decision. In appropriate cases, at the management evaluation review stage, options may be considered to resolve the matter informally, including referral of the case to the Ombudsman.

9. The management evaluation has two main purposes: (a) to give management a chance to review a decision being contested by a staff member; and (b) to reduce the number of overall cases that need to proceed to litigation before the United Nations Dispute Tribunal. The Management Evaluation Unit also prepares and disseminates guides with lessons learned from the Tribunals' jurisprudence for managers to contribute to better and more consistent decision-making.

10. A management evaluation is a mandatory first step in the formal process, unless: (a) the contested decision involves the imposition of a disciplinary or non-disciplinary measure pursuant to staff rule 10.2 following the completion of a disciplinary process; or (b) the decision was taken based on the advice of technical bodies. In such cases, an application contesting an administrative decision may be made to the Dispute Tribunal without first having to request a management evaluation.

C. United Nations Dispute Tribunal

1. About the Tribunal

11. The United Nations Dispute Tribunal is competent to decide on applications by staff members and former staff members of the United Nations, including the United Nations Secretariat and the separately administered United Nations funds and programmes, regarding employment-related administrative decisions. The applications are filed against the Secretary-General.

12. The Dispute Tribunal operates on a full-time basis. It comprises five professional independent judges, three full-time and two half-time. It is supported by Registries in New York, Geneva and Nairobi. The Dispute Tribunal also has three professional independent ad litem — or temporary — judges to strengthen its capacity to handle the pending number of cases.

2. Applicant and respondent

13. The applicants before the Dispute Tribunal may decide to represent themselves, to be represented by volunteers who are either current or former staff members of the Organization or by external private counsel (at their own cost, if any) or to avail themselves of legal assistance and advice from the Office of Staff Legal Assistance.

14. The Secretary-General is represented before the Dispute Tribunal by the Administrative Law Section of the Office of Human Resources Management and other legal officers in offices away from Headquarters, funds and programmes, and regional commissions.

D. United Nations Appeals Tribunal

1. About the Tribunal

15. Judgments or orders by the United Nations Dispute Tribunal may be appealed by either the staff member who has filed the case or by the Secretary-General to the United Nations Appeals Tribunal.

16. In addition to deciding appeals against judgments and interlocutory orders of the Dispute Tribunal (under article 2.1 of the statute of the Appeals Tribunal), the Appeals Tribunal is competent to decide appeals against decisions of the Standing Committee acting on behalf of the United Nations Joint Staff Pension Board alleging non-observance of the Regulations of the United Nations Joint Staff Pension Fund (under article 2.9 of the statute of the Appeals Tribunal) and appeals against judgments and decisions in connection with entities that have concluded special agreements with the Secretary-General (under article 2.10 of the statute of the Appeals Tribunal): the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the International Civil Aviation Organization, the International Court of Justice and the International Maritime Organization.

17. The statute of the Appeals Tribunal allows for appeals in limited cases where it is alleged that the Dispute Tribunal or another first instance entity has either exceeded its jurisdiction or failed to exercise it or that it has committed an error on a question of fact or law or procedure.

18. The Appeals Tribunal is composed of seven professional independent judges, and its Registry is based in New York. It is not a full-time tribunal; it normally holds three sessions a year, each of two-week duration.

2. Appellant and respondent

19. Appeals against a judgment of the Dispute Tribunal or another entity may be filed by either party (i.e., the applicant or a person making claims in the name of an incapacitated or deceased applicant, or the respondent).

20. As before the Dispute Tribunal, the applicants may elect to be self-represented, represented by volunteers who are either current or former staff members of the Organization or by external private counsel (at own cost, if any), or legally assisted by or, in cases with a reasonable chance of success, represented by the Office of Staff Legal Assistance.

21. Before the Appeals Tribunal, the Secretary-General is represented by the Office of Legal Affairs of the Secretariat.

E. Office of Administration of Justice

22. The Office of Administration of Justice was established at the outset of the system with the rationale that a separate Office of Administration of Justice, with operational and budgetary autonomy, would ensure the institutional independence of the system of internal justice.

23. The Office of Administration of Justice is an independent office responsible for the overall coordination of the formal components of the United Nations internal justice system and for contributing to its functioning in a fair, transparent and efficient manner.

24. The Office of Staff Legal Assistance (without prejudice to its operational independence) and the Registries of the Tribunals are all part of the Office of Administration of Justice. With its headquarters in New York, the Office of Administration of Justice also has a presence in Geneva and Nairobi, through the Dispute Tribunal Registries and the branch offices of the Office of Staff Legal Assistance, and in Addis Ababa and Beirut, through the branch offices of the Office of Staff Legal Assistance.

25. The Office of Administration of Justice prepares annual activity reports, which provide an overview of the work of the Office and aggregate data on the work of the

Tribunals and of the Office of Staff Legal Assistance. The reports also include summaries of notable legal pronouncements by the Tribunals on a range of subjects. The reports can be accessed at the website of the Office of Administration of Justice (www.un.org/en/internaljustice/).

1. Office of the Executive Director

26. The Executive Director of the Office of Administration of Justice, appointed by the Secretary-General, heads the Office and is responsible for reporting on systemic issues relating to the administration of internal justice and recommending changes to regulations, rules and other administrative issuances that would improve the functioning of the system. The Executive Director is also responsible for disseminating information regarding the formal system and for ensuring the provision of assistance to the Internal Justice Council.

2. Registries

27. The Registries of the Tribunals provide substantive, technical and administrative support to the Dispute Tribunal and the Appeals Tribunal.

28. The Dispute Tribunal has three Registries, located in Geneva, Nairobi and New York, respectively. The Appeals Tribunal has a Registry located in New York. Each Registry is headed by a Registrar, who is responsible, under the authority of the Principal Registrar and without prejudice to the authority of the judges of the respective Tribunal in relation to judicial matters, for the management and proper functioning of the Tribunal in the relevant duty station.

29. The Principal Registrar is responsible for overseeing the activities of the Registries of the Dispute Tribunal and the Registry of the Appeals Tribunal, also without prejudice to the authority of the judges of the Tribunals in relation to judicial matters.

3. Office of Staff Legal Assistance

30. The Office of Staff Legal Assistance is a team of professional full-time lawyers, experts in employment and administrative law and trained litigators, who provide legal assistance and advice to staff members, former staff members and their beneficiaries in an independent and impartial manner. In cases with a reasonable chance of success, the Office also provides legal representation before the Tribunals.

31. The Office of Staff Legal Assistance assists United Nations staff worldwide, at all levels, on a wide range of employment matters, including non-appointment, termination, claims of discrimination, harassment or abuse of authority, pension benefits, disciplinary and misconduct cases and other rights and entitlements under the Staff Rules.

32. The Office provides a wide range of legal services to staff, including summary legal advice, advice and representation during informal dispute resolution and the mediation process, assistance with the management evaluation review and during the disciplinary process. At any stage of a dispute, or even in anticipation of a dispute, a staff member may seek advice and assistance. The Office can advise on the legal merits of a case and the options the staff member might have. If a staff member chooses to proceed with a case in the formal system, the Office is available to assist throughout the process and, unless the case is unlikely to succeed, will provide representation before the Tribunals and other recourse bodies.

33. United Nations system staff members will not incur any direct personal legal fees at any time for the assistance provided by the Office, whether for advice while seeking an informal resolution of a dispute or, later in the process, for advice and

representation if the staff member decides to go through the formal process. This legal service is financed by the United Nations and supplemented by staff members through a voluntary contribution mechanism. All staff are encouraged to contribute.

34. The Office has a presence at Headquarters in New York, as well as in Geneva, Nairobi, Addis Ababa and Beirut.

F. Legal offices representing the Secretary-General as respondent

1. Representation before the United Nations Dispute Tribunal

35. Various legal offices in the Secretariat and the separately administered funds and programmes represent the Secretary-General in written and oral proceedings before the United Nations Dispute Tribunal.[a] This entails filing written submissions on legal and factual issues, reviewing written submissions from the staff member who filed the case and appearing at case management discussions and hearings on the merits, which involves leading evidence from witnesses and making submissions on a broad range of subjects. In addition, as the representative of the Secretary-General, the offices are often engaged in efforts to resolve the dispute informally through settlement discussions, which at times include the Office of the United Nations Ombudsman and Mediation Services. Once a Dispute Tribunal judgment is issued, the office representing the Secretary-General provides input to the Office of Legal Affairs on whether the judgment should be appealed and the draft submissions of the Office of Legal Affairs on appeal. When the judgment becomes executable, the office concerned ensures the implementation of the judgment, which means that the office continues to handle a case after adjudication by the Dispute Tribunal.

2. Representation before the United Nations Appeals Tribunal

36. As the central legal service of the United Nations, the Office of Legal Affairs provides legal advice to the Secretary-General, as well as the principal and subsidiary organs of the United Nations, including the departments and offices of the Secretariat and the separately administered funds and programmes. Such advice concerns all activities and operations of the Organization, including the system of administration of justice. The functions of the Office in this area involve the analysis of all judgments of the Tribunals to form a comprehensive understanding of the jurisprudence in the system of administration of justice. The Office draws on this analysis to: (a) advise on claims by staff; (b) advise the entities representing the Secretary-General before the Dispute Tribunal; (c) decide whether to appeal judgments of the Dispute Tribunal; and (d) advise the principal and subsidiary organs of the United Nations.

37. In addition, the Office is responsible for representing the Secretary-General before the Appeals Tribunal for all United Nations entities. This responsibility encompasses both the filing of appeals against judgments of the Dispute Tribunal and responding to appeals filed by staff members. It also involves filing motions and responses to motions, as well as oral advocacy at hearings before the Appeals Tribunal. The Office further advises on the implementation of judgments, on their implications and on whether specific policies need to be revised in view of the

[a] The Secretariat: the Administrative Law Section in the Office of Human Resources Management at Headquarters (which comprises the Appeals Unit and the Disciplinary Unit), the Legal Unit in the Human Resources Management Service at the United Nations at Geneva and at the United Nations at Nairobi; the separately administered funds and programmes and other entities: United Nations Development Programme, United Nations Environment Programme, United Nations Population Fund, Office of the United Nations High Commissioner for Refugees, United Nations Children's Fund, United Nations Office for Project Services, United Nations Entity for Gender Equality and the Empowerment of Women, Economic Commission for Africa, United Nations Human Settlements Programme.

Tribunals' jurisprudence. On a case-by-case basis, the Office advises the Executive Office of the Secretary-General on referrals for possible action to enforce accountability made to the Secretary-General by the Tribunals.

G. Office of the United Nations Ombudsman and Mediation Services

38. As neutral and independent parties, the United Nations ombudsmen and mediators assist United Nations employees in addressing their work-related concerns and help to resolve conflict through informal means. Using informal means of resolving disputes does not in any way preclude a staff member from bringing a case to the formal component of the system, within applicable deadlines.

39. The guiding principles of ombudsmen and mediators are independence, neutrality, impartiality, confidentiality and informality: an ombudsman or mediator is an independent neutral who will not take sides in a conflict; he or she cannot impose a solution or make a managerial decision; the outcome of the process is entirely controlled by the parties; and all communications in the process are confidential and cannot be disclosed without permission.

40. The Office of the United Nations Ombudsman and Mediation Services offers opportunities to: (a) discuss a problem off-the-record and in confidentiality; (b) explore alternatives for resolving a problem; (c) increase the staff member's ability and confidence to deal with conflict; (d) receive coaching and guidance on how to present an issue or concern. Apart from dispute resolution services, ombudsmen may also promote conflict competence and make recommendations for improvements to the work environment.

41. Mediation is a voluntary process and requires agreement by both parties to take place. By bringing parties together in a strictly confidential setting, a mediator facilitates a meaningful dialogue, allowing each party to feel that they have been heard and helping to uncover their underlying needs and interests, thus heightening the potential for an amicable resolution. The process also helps to repair working relationships, thereby developing a harmonious work environment. The Dispute Tribunal may refer cases for mediation.

42. In addition to the Office of the United Nations Ombudsman and Mediation Services, which serves the Secretariat, there are separate, dedicated ombudsmen and mediation services for the United Nations Development Programme (UNDP), the United Nations Children's Fund (UNICEF), the United Nations Population Fund (UNFPA), the United Nations Office for Project Services (UNOPS), the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and the Office of the United Nations High Commissioner for Refugees (UNHCR). Ombudsmen for the United Nations separately administered funds, programmes and entities are based in New York and, for UNHCR, in Geneva and Budapest. They provide services to the entire global workforce, including interns, United Nations Volunteers and other non-staff personnel.

43. More information on the Office of the United Nations Ombudsman and Mediation Services is available on its website (www.un.org/en/ombudsman/index.shtml).

H. Internal Justice Council

44. The Internal Justice Council is a body established by the General Assembly with a key role relating to the United Nations internal justice system.

45. The main tasks of the Council are to provide its views and recommendations to the General Assembly regarding candidates to be appointed as judges by the Assembly to the Dispute Tribunal and the Appeals Tribunal and to provide its views to the Assembly regarding the ongoing implementation of the United Nations internal system of administration of justice.

46. The Council is a five-member body consisting of a staff representative, a management representative and two distinguished external jurists, one nominated by the staff and one by management, and chaired by a distinguished jurist chosen by consensus by the other four members.

47. The Council is assisted, as appropriate, by the Office of the Executive Director of the Office of Administration of Justice.

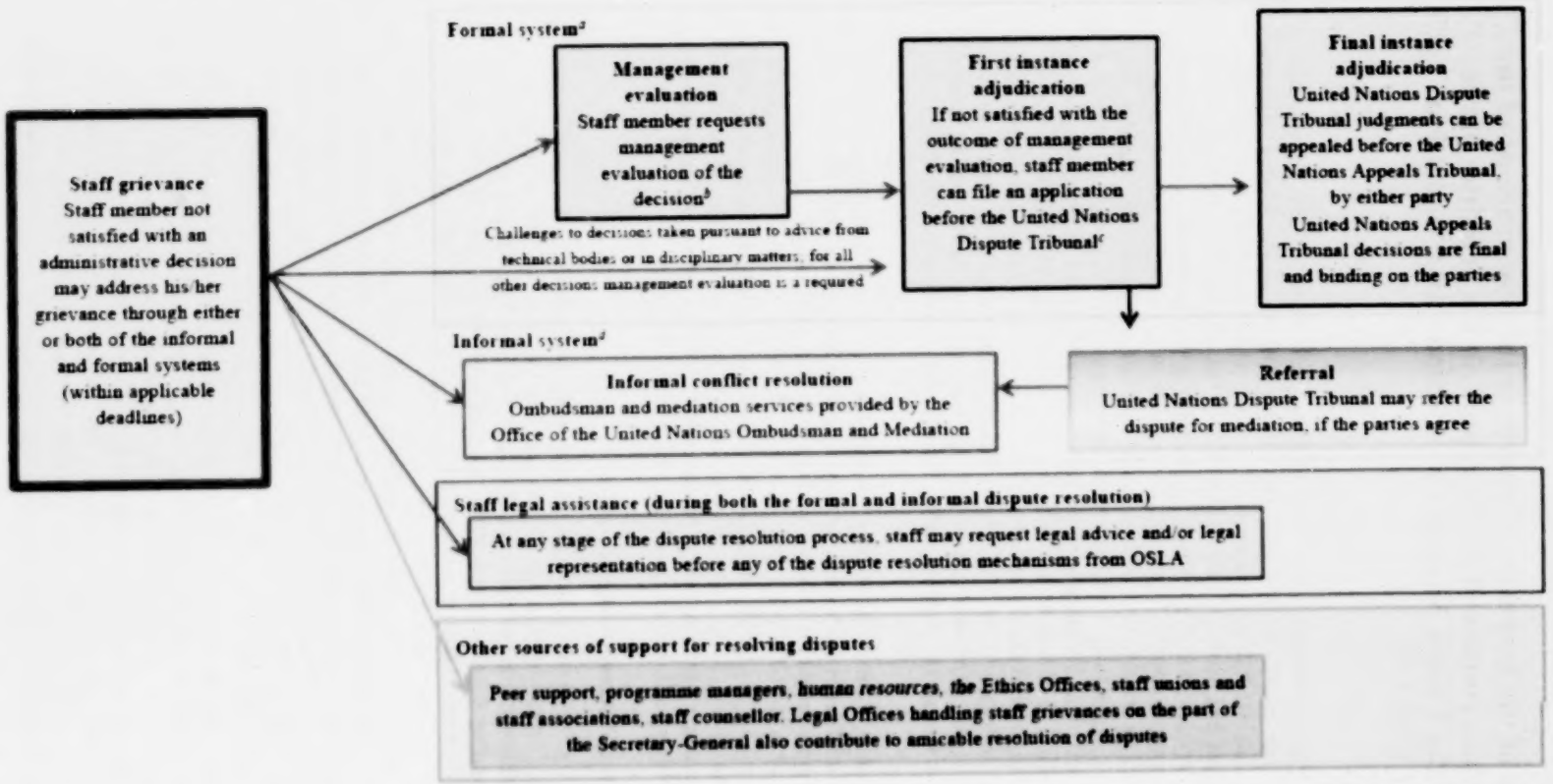
I. Other sources of support for resolving work-related disputes

48. In addition to the informal and formal methods of resolving work-related disputes and grievances, there are other sources of support at the United Nations that a staff member can turn to if they are seeking resolution of a work-related dispute or having a problem at the office. Some of these are: peer support, programme managers, human resources, the ethics offices (United Nations, UNDP, UNFPA, UNHCR, UNICEF, UNOPS), staff unions and staff associations, the Staff Counsellor and the Focal Point for Women in the United Nations.

49. Legal offices handling staff grievances on the part of the Secretary-General also contribute to amicable resolution of disputes, often before the dispute reaches the formal or informal dispute resolution system.

Annex II

United Nations administration of justice flow chart


Staff grievance
Staff member not satisfied with an administrative decision may address his/her grievance through either or both of the informal and formal systems (within applicable deadlines)
Formal system[a]
Management evaluation
Staff member requests management evaluation of the decision[b]
Challenges to decisions taken pursuant to advice from technical bodies or in disciplinary matters; for all other decisions management evaluation is a required
First instance adjudication
If not satisfied with the outcome of management evaluation, staff member can file an application before the United Nations Dispute Tribunal[c]
Final instance adjudication
United Nations Dispute Tribunal judgments can be appealed before the United Nations Appeals Tribunal, by either party
United Nations Appeals Tribunal decisions are final and binding on the parties
Informal system[d]
Informal conflict resolution
Ombudsman and mediation services provided by the Office of the United Nations Ombudsman and Mediation
Referral
United Nations Dispute Tribunal may refer the dispute for mediation, if the parties agree
Staff legal assistance (during both the formal and informal dispute resolution)
At any stage of the dispute resolution process, staff may request legal advice and/or legal representation before any of the dispute resolution mechanisms from OSLA
Other sources of support for resolving disputes
Peer support, programme managers, human resources, the Ethics Offices, staff unions and staff associations, staff counsellor. Legal Offices handling staff grievances on the part of the Secretary-General also contribute to amicable resolution of disputes

[a] At any time during the formal resolution process, the staff member and decision-maker can attempt to resolve the dispute informally, with or without the assistance of the Office of the United Nations Ombudsman and Mediation Services.

[b] The evaluation entails an objective and reasoned assessment as to whether the contested decision was made in accordance with the rules. It is conducted by the Management Evaluation Unit for Secretariat entities; United Nations funds and programmes have a similar function. The purpose of this step is to give management a chance to review a decision being contested by a staff member or provide acceptable remedies in cases in which there has been flawed decision-making. The Management Evaluation Unit and the Office of Staff Legal Assistance can also help resolve the dispute informally, with or without the assistance of the Office of the United Nations Ombudsman and Mediation Services.

[c] The United Nations Dispute Tribunal hears and decides cases filed by or on behalf of current and former staff members appealing administrative decisions alleged to be in non-compliance with their terms of appointment or contract of employment.

[d] Attempts to resolve a dispute informally do not preclude formal resolution (within deadline) if informal resolution is unsuccessful.

[e] The Office of the United Nations Ombudsman and Mediation Services includes ombudsman and mediation services for the Secretariat and United Nations funds and programmes.

Annex III

Response of the Secretary-General to the observations of the Ombudsman contained in the report on the activities of the Office of the United Nations Ombudsman and Mediation Services (A/72/138)

Introduction

1. The Secretary-General takes note of the observations of the Ombudsman contained in the report on the activities of the Office of the United Nations Ombudsman and Mediation Services (A/72/138), which provides, inter alia, the history, mandate and scope of coverage of the Office for the past 15 years of the ombudsman services in the Secretariat in supporting staff members in the informal system of administration of justice. Throughout the reporting period, several initiatives were undertaken by the Secretariat to address the concerns raised in the report. Further, the issuance of the report came at an opportune time, when the Secretary-General was embarking on an ambitious reform plan in the management pillar. The reform is aimed at streamlining and simplifying the human resources regulatory framework of the Organization, including the Staff Regulations and Rules of the United Nations, internal policies, processes and procedures to ensure, among others, timely recruitment, deployment and staff development, with clear delegation of authority to managers, together with clearer rules of accountability (A/72/492, para. 8 (e)).

2. The Secretary-General takes note of the observation of the Ombudsman that the root causes of conflict in the Secretariat may stem from gaps or inconsistencies in the operational implementation of the policies, procedures and practices of the Organization or may be more deeply rooted, for example in the organizational structure or culture or in a suboptimal alignment among purpose, goal and implementation (ibid., para. 54). The Secretary-General also takes note of the Ombudsman's observation that performance management and behaviour management have been problematic for some time (ibid., paras. 5 (c) and 56)).

Simplification and streamlining of policies

3. The Office of Human Resources Management has continued to consider the observations of the Ombudsman in its continuous revision of existing and development of new human resources policies and practices. The Office has embarked on a comprehensive holistic review of the Organization's regulatory framework, in line with the Secretary-General's imperatives of: (a) a streamlined and simplified policy framework that is easy to understand and apply by all stakeholders; (b) decentralized authority as close as possible to the point of mandate delivery; (c) transparent procedures and timely business intelligence reporting, monitoring and quality assurance; and (d) measures for strengthened accountability (ibid., para. 26). The resulting proposed amendments to the Staff Regulations and Rules of the United Nations will be presented to the General Assembly for its consideration at the main part of the seventy-third session.

4. Within the context of the project on the simplification and streamlining of policies, initiated in 2017, which includes not only a review of the Staff Regulations and Rules of the United Nations but also of the administrative issuances (Secretary-General's bulletins, administrative instructions, information circulars and policy guidelines), systemic issues identified by the Office of the United Nations Ombudsman and Mediation Services, lessons learned from jurisprudence and operational implementation of existing policies are being taken fully into account and

extensive two-way communication has been established to elicit continuous feedback on key organizational policies from all stakeholders, including departments and offices at Headquarters, regional commissions, offices away from Headquarters, peacekeeping and special political missions, United Nations funds and programmes and staff representatives through regular meetings.

Performance management

5. The Secretariat has continued to undertake improvements to the performance management and development system to address the concerns outlined in the management reform report of the Secretary-General (A/72/492) and those raised by the General Assembly in its resolutions 65/247, 68/252, 68/265 and 71/263, in which the Assembly emphasized the importance of addressing gaps in the current performance management system. The observations of the Office of the United Nations Ombudsman and Mediation Services, as outlined in reports A/72/138 and A/72/157 and feedback from managers and staff, lessons learned and best practices have also played a key role in informing progressive improvements to the Secretariat's performance management and development system.

6. A key finding from the review of the performance management and development system indicates that while there is not a fundamental problem with the current policy framework, there are aspects that need to be streamlined and improved. Specifically, as articulated in his overview of human resources management reform (A/71/323), the Secretary-General proposed a two-phased approach to performance management reform. First, he proposed that the credibility and reliability of performance evaluations be strengthened. Second, he stressed that performance should become an explicit criterion that determines the career progression of staff members and managers in the Organization.

7. With respect to strengthening the credibility and reliability of performance evaluations and in order to enhance the accountability of managers and staff accountable for performance management, the Secretary-General has put in place the following initiatives:

(a) A new agile performance management approach that focuses on promoting behavioural changes, especially in connection to the need for ongoing feedback between managers and staff, is in development;

(b) The performance document will be further simplified, building on the changes that have been implemented for the 2018–2019 cycle. These changes are aimed at increasing managerial accountability, promoting awareness of gender-oriented targets and improving the ease and speed with which staff can navigate the online tool;

(c) The Secretariat will also strengthen learning tools and guidance materials for managers and human resources practitioners, especially on addressing underperformance issues and ratings calibration;

(d) A new online learning programme on core performance management principles and requirements will be available to managers in the fourth quarter of 2018;

(e) In the fourth quarter of 2018, the Secretariat will conduct a 360-degree evaluation of senior officials at the Under-Secretary-General and Assistant Secretary-General levels to strengthen and drive leadership accountability.

8. As part of the above-mentioned project on the simplification and streamlining of policies, the administrative instruction on performance management is under substantive revision and will incorporate the above-mentioned improvements while

aiming to provide a clearer and simplified policy framework for both managers and staff.

Transformation of organizational culture

9. The Secretary-General has placed the transformation of the culture of the Organization at the centre of his reform agenda. In paragraph 14 of his report on management reform (A/72/492), he noted that critical to the success of his reform agenda would be a profound transformation of culture, and visionary and principled United Nations leadership — at all levels and across the system. He further elaborated a vision that shifts the Organization to a culture that is focused more on results than on processes, better manages administrative and mandate delivery risks, values innovation and demonstrates a higher tolerance for honest mistakes and a greater readiness to take prompt corrective action (ibid., para. 15).

10. To support the move towards the new culture, the following initiatives are under way:

(a) Introduction in the fourth quarter of 2018 of a 360-degree feedback programme for senior officials at the Under-Secretary-General and Assistant Secretary-General levels;

(b) Institutionalization of a credible and strengthened performance management and development system;

(c) Introduction of a new leadership and management model in the fourth quarter of 2018;

(d) Increased awareness and focus on unconscious bias; offering mentoring opportunities to staff at large;

(e) Nurturing organizational cultural changes in the longer term.

United Nations staff engagement survey

11. The Secretariat administered the first United Nations staff engagement survey from 4 to 18 December 2017. More than 39 per cent of staff responded (more than 14,000 staff) and the results have been widely shared and discussed within the Organization.

12. The results revealed that staff are proud to work at the United Nations and are energized by their work; they understand how their work contributes to the goals of the Organization; and they recognize strong collaboration among co-workers. However, the Secretary-General notes that the survey also makes clear that more could be done to foster a work culture that encourages innovation and ensures that the Secretariat is able to anticipate and respond to change. He further notes that the fact that 37 per cent of staff do not feel comfortable challenging the status quo and 30 per cent expressed concern about ethical conduct and accountability in the Secretariat requires closer scrutiny. Furthermore, he is deeply troubled that a significant gender gap existed across all indicators.

13. The results of the survey are currently being used for dialogue between staff and managers throughout the Secretariat about how to improve workplace culture and dynamics. While this is a bottom-up dialogue, all senior managers were required to establish action plans for their respective entity by 30 June 2018. The survey and follow-up action planning will be repeated approximately every two years, with the next survey tentatively planned for December 2019.

Annex IV

Monthly opt-out rates and staff contributions under the voluntary supplemental funding mechanism in 2017 and total amount and monthly average for the period from April 2014 to May 2018

(United States dollars)

	January		*February*		*March*		*April*		*May*		*June*	
Entity	*Opt-out rate (percentage)*	*Contribution*	*Opt-out rate (percentage)*	*Contribution*	*Opt-out rate (percentage)*	*Contribution*	*Opt-out rate (percentage)*	*Contribution*	*Opt-out rate (percentage)*	*Contribution*	*Opt-out rate (percentage)*	*Contribution*
UNHCR	33.92	10 029.23	34.14	10 162.61	34.41	10 281.63	34.29	10 240.18	34.24	10 358.58	33.73	11 753.00
UNHQ[a]	32.88	36 259.81	32.54	35 337.58	32.57	36 457.27	32.37	37 168.89	32.34	37 411.74	33.5	51 480
UNDP	42	15 421.00	42	15 714.00	42	15 558.00	42	15 632.00	42	16 228	42	15 893.00
UNICEF	90	2 772.84	90	2 847.51	90	2 728.17	90	2 854.97	91	2 775.15	91	2 650.22
UNOPS	44	1 224.59	43	1 261.87	44	1 216.33	45	1 201.20	44	1 194.84	45	1 202.31
Total		**65 707.47**		**65 323.57**		**66 241.40**		**67 097.24**		**67 968.31**		**82 978.53**

	July		*August*		*September*		*October*		*November*		*December*	
Entity	*Opt-out rate (percentage)*	*Contribution*	*Opt-out rate (percentage)*	*Contribution*	*Opt-out rate (percentage)*	*Contribution*	*Opt-out rate (percentage)*	*Contribution*	*Opt-out rate (percentage)*	*Contribution*	*Opt-out rate (percentage)*	*Contribution*
UNHCR	33.89	10 753.32	33.47	10 777.46	33.2	11 027.23	32.85	11 199.88	33.11	11 319.72	32.76	11 438.38
UNHQ[a]	32.47	47 648.14	32.54	47 725.86	32.67	47 870.21	32.58	47 619.85	32.47	47 635.22	32.49	47 706.82
UNDP	42	15 754.00	42	15 774.00	42	15 813.00	42	15 776	42	15 874.40	42	15 804.09
UNICEF	91	2 727.98	91	2 635.60	91	2 825.61	91	2 706.30	91	2 779.60	91	2 688.13
UNOPS	48	1 175.78	46	1 183.89	46	1 191.95	47	1 168.91	47	1 157.51	47	1 168.39
Total		**78 059.22**		**78 096.81**		**78 728.00**		**78 470.94**		**78 766.45**		**78 805.81**
Total contributions in 2017												**881 111.4**
Total contributions and monthly average for the period from April 2014[b] to May 2018, respectively												**3 367 117.20 and 67 342.34**

Abbreviations: UNDP, United Nations Development Programme; UNHCR, Office of the United Nations High Commissioner for Refugees; UNHQ, United Nations Headquarters; UNICEF, United Nations Children's Fund; UNOPS, United Nations Office for Project Services.

[a] United Nations Headquarters provides information for: United Nations Office at Nairobi, United Nations Office at Geneva, United Nations Office at Vienna, United Nations Headquarters, International Tribunal for the Former Yugoslavia, International Residual Mechanism for Criminal Tribunals, Economic Commission for Africa, Economic Commission for Latin America and the Caribbean and Economic and Social Commission for Western Asia.

[b] The mechanism was introduced in April 2014, with a possibility of retroactive application as from January 2014.

Annex V

Settlement payments recommended by the Management Evaluation Unit and monetary compensation awarded by the Tribunals in 2017 or paid in 2017

A. Settlement payments made in accordance with recommendations by the Management Evaluation Unit[a]

Department of decision-maker	*Compensation*	*Level of staff member*	*Amount (United States dollars)*	*Reason for compensation*
DFS-UNMOGIP	Fixed amount	FS-6/11	1 100.00	Compensation for loss of personal effects
DFS-MINUSCA	6 weeks' net base salary	P-3/6	7 398.54	Breach of contract
DGACM	1 month's net base salary	P-4/14	7 424.25	Lack of full and fair consideration
DM-OPPBA	1 month's net base salary	P-4/6	6 527.00	Lack of due notice
ESCAP and DM-OHRM	Fixed amount	G-7/10	1 000.00	Lack of full and fair consideration
OHCHR and DM-OHRM	Fixed amount	P-4/98	15 000.00	Non-selection in three selection processes
Total			**38 449.79**	

Abbreviations: DFS, Department of Field Support; DGACM, Department for General Assembly and Conference Management; DM, Department of Management; ESCAP, Economic and Social Commission for Asia and the Pacific; MINUSCA, United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic; OHCHR, Office of the United Nations High Commissioner for Human Rights; OHRM, Office of Human Resources Management; OPPBA, Office of Programme Planning, Budget and Accounts; UNMOGIP, United Nations Military Observer Group in India and Pakistan.

[a] Reflects compensation paid in cases received in 2017 as well as compensation paid in 2017 for cases carried over from 2016.

B. Monetary compensation awarded by the Tribunals in 2017 or paid in 2017

United Nations Dispute Tribunal judgment No.	*Registry*	*Entity of decision-maker*	*Compensation awarded costs ordered by the United Nations Dispute Tribunal*	*United Nations Appeals Tribunal judgment No.*	*Affirmed vacated rejected compensation awarded by the United Nations Appeals Tribunal*	*Net amount paid (United States dollars unless otherwise indicated)*	*Date of payment*
UNDT/2016/016	New York	DGACM	(i) Decision not to grant a continuing appointment rescinded (ii) Alternatively, pay $5,000 as compensation (iii) Moral damages rejected	2016-UNAT-696	Affirmed	5 173.90	22 February 2017
UNDT/2016/052	Geneva	ESCAP	(i) Selection decision for Translation Unit Chief post rescinded (ii) Alternatively, pay $2,000 as compensation (iii) Moral damages in the amount of $3,000	2017-UNAT-712	(i) Affirmed (ii) Affirmed (iii) Vacated	2 110.51	6 September 2017
UNDT/2016/058	Nairobi	UNAMI	(i) Unlawful reassignment decision moot due to separation (ii) Compensation for unlawful reassignment of 12 months' net base salary (iii) Compensation for breach of employment terms of 3 months' net base salary (iv) Compensation for damage to career prospects of 3 months' net base salary due to separation (v) Compensation for unfair treatment of $5,000	2017-UNAT-720	(i) Not appealed (ii) Not appealed (iii) Not appealed (iv) Vacated (v) Not appealed	13 823.455 (KWD 5 006.15)	30 July 2017
UNDT/2016/186	New York	MINUSTAH	(i) Termination during paternity leave decision rescinded (ii) Alternatively, pay compensation of 8 months' net base salary (iii) Compensation of $5,000 for moral injury	–	–	68 251.72	11 January 2017
UNDT/2016/193	New York	DGACM	(i) Decision terminating permanent contract rescinded (ii) Alternatively, pay compensation of 2 years' net base salary minus termination indemnity (iii) Compensation for emotional distress of $7,000	2017-UNAT-765	(i) Affirmed (ii) Partially affirmed, no reduction for termination indemnity (iii) Vacated	137 946.12	3 November 2017

United Nations Dispute Tribunal judgment No	*Registry*	*Entity of decision-maker*	*Compensation awarded costs ordered by the United Nations Dispute Tribunal*	*United Nations Appeals Tribunal judgment No*	*Affirmed vacated rejected compensation awarded by the United Nations Appeals Tribunal*	*Net amount paid (United States dollars unless otherwise indicated)*	*Date of payment*
UNDT/2017/003	New York	UNMISS	(i) Unlawful exclusion from temporary job opening process (ii) Compensation of $1,500 for moral damages for loss of career prospects	2017-UNAT-785	(i) Vacated (ii) Vacated	–	–
UNDT/2017/004	Geneva	UNCTAD	(i) Selection for the position of Chief of Transport Services rescinded (ii) Alternatively, compensation of $10,000 (iii) Material damages equivalent to the difference in the net base salary applicant would have received at the P-5 level and current salary at the P-4 level, from the time of the implementation of the contested decision until issuance of the present judgment (iv) Compensation for moral damages of $6,000	–	–	16 717.28 7 773.92	28 March 2017 6 June 2017
UNDT/2017/006	New York	DGACM	(i) Delay in handling of applicant's complaint of misconduct under ST/SGB/2008/5 (ii) Compensation of $15,000 for non-pecuniary damages	2017-UNAT-786	(i) Vacated (ii) Vacated	–	
UNDT/2017/007	New York	DGACM	(i) Procedural fairness breaches determined (ii) Compensation of $5,000 for harm done regarding second investigation into complaint under ST/SGB/2008/5	2017-UNAT-787	(i) Affirmed (ii) Vacated	–	
UNDT/2017/012	New York	DFS	(i) Applicant not fully and fairly considered for vacancy (ii) Compensation of $4,000 for procedural violations	2017-UNAT-792	(i) Vacated by remand to same Dispute Tribunal judge (ii) Vacated by remand to same Dispute Tribunal judge	–	
UNDT/2017/013	Geneva	UNFCCC	(i) Further repatriation grant amounts sought rejected (ii) Compensation of $500 for moral damages as a result of payment delay	2017-UNAT-791	(i) Rejected (ii) Affirmed	500.00	3 May 2017

United Nations Dispute Tribunal judgment No	*Registry*	*Entity of decision-maker*	*Compensation awarded costs ordered by the United Nations Dispute Tribunal*	*United Nations Appeals Tribunal judgment No*	*Affirmed vacated rejected compensation awarded by the United Nations Appeals Tribunal*	*Net amount paid (United States dollars unless otherwise indicated)*	*Date of payment*
UNDT/2017/017	Nairobi	UNMIL	(i) After remand from Appeals Tribunal on damage calculation — For unlawful non-renewal of contract, as alternative 4 months' net base salary (ii) After remand from Appeals Tribunal on damage calculation — For unlawful non-renewal of contract, 8 months' net base salary less the $ equivalent of €59,000	–	–	37 927.19	18 April 2017
UNDT/2017/018	Nairobi	UNHCR	(i) Decision to remove applicant from his position as Deputy Representative unlawful (ii) Compensation of four months' net base salary for harm to career prospects	–	–	30 209.68	31 May 2017
UNDT/2017/024	Nairobi	UNAMI	Order of pre-judgment interest on compensation already paid from 30 November 2009 (separation) to 9 December 2016 (payment)	2017-UNAT-796	Vacated	–	–
UNDT/2017/029	Nairobi	ESCWA	(i) Application for position not given full and fair consideration (ii) Compensation of 3 months' net base pay at 24 April 2014 salary level	2017-UNAT-802	(i) Vacated (ii) Vacated	–	–
UNDT/2017/036	Nairobi	ESCWA	(i) Unlawful termination of employment contract (ii) Compensation of 1 month's net base salary for moral damages (iii) Compensation of 2 months' net base salary for breach of employment contract	2018-UNAT-810	(i) Affirmed (ii) and (iii) Compensation merged into $8,500	8 500.00	20 July 2018
UNDT/2017/040	Geneva	DESA	(i) Order to correct applicant's official status file (ii) Compensation of $1,543.04 for material damages	–	–	1 545.92	22 August 2017
UNDT/2017/042	New York	ICTR	(i) Unlawful delay in processing final payments and submission of pension forms (ii) Compensation of $1,500 for 3 months' delay in processing final payments and submission of pension forms	2018-UNAT-815	(i) Vacated except for unlawful leave days calculation, refusal of investigation report and failure to intervene in the matter as not receivable (ii) Vacated	–	–

United Nations Dispute Tribunal judgment No	*Registry*	*Entity of decision-maker*	*Compensation awarded costs ordered by the United Nations Dispute Tribunal*	*United Nations Appeals Tribunal judgment No*	*Affirmed vacated rejected compensation awarded by the United Nations Appeals Tribunal*	*Net amount paid (United States dollars unless otherwise indicated)*	*Date of payment*
UNDT/2017/043	Geneva	UNOG	(i) Decision to pay salary late entailed harm (ii) Interest for delay from 30 November 2015 to 31 March 2016 (iii) Compensation for moral damages of SwF 1,000 due to stress and worry	–	–	SwF 1 137.41	3 October 2017
UNDT/2017/051	Geneva	UNHCR	(i) Disciplinary measure of separation from service with termination indemnities and compensation in lieu of notice rescinded (ii) Decision remanded to administration to resume disciplinary procedure to be completed in no later than 5 months (iii) As an alternative to rescission and specific performance, compensation in the amount of 6 months of emoluments (gross salary plus post adjustment minus staff assessment as at time of separation)	2018-UNAT-819	(i) Vacated (ii) Vacated (iii) Vacated	–	–
UNDT/2017/058	Nairobi	ECA	(i) Decision not to pay compensation for loss of personal effects rescinded (ii) Compensation for the loss of personal effects of already agreed sum of $10,790	–	–	10 844.02	23 October 2017
UNDT/2017/068	New York	DSS	(i) Exclusion from selection exercise rescinded (ii) Alternatively, compensation in the amount of $20,000 (iii) Compensation of $5,000 for loss of opportunity for career advancement and loss of job security (iv) The amounts are less $833.45 already paid	2018-UNAT-832	(i)–(iv) Remanded to Dispute Tribunal for consideration of application for revision of judgment	–	–
UNDT/2017/072	New York		(i) Application against first job rotation decision not receivable (ii) Implementation and extension of second decision unlawful (iii) Compensation of $2,250 for emotional distress	2018-UNAT-835	(i) Vacated (ii) Vacated (iii) Vacated	–	–

United Nations Dispute Tribunal judgment No.	*Registry*	*Entity of decision-maker*	*Compensation awarded/costs ordered by the United Nations Dispute Tribunal*	*United Nations Appeals Tribunal judgment No.*	*Affirmed/vacated/rejected compensation awarded by the United Nations Appeals Tribunal*	*Net amount paid (United States dollars unless otherwise indicated)*	*Date of payment*
UNDT/2017/077	New York	UNDOF	(i) Decision to deny full assignment grant rescinded (ii) Payment of outstanding lump sum portion of assignment grant for 4 months and 2 weeks (iii) Other claims rejected	–	–	3 704.64	8 January 2018
UNDT/2017/078	New York	UNDOF	(i) Decision to deny compensation for loss of iPad and wristwatch during emergency evacuation of Camp Faouar rescinded (ii) Compensation of $2,100 for loss	–	–	7 575.62	2 January 2018
UNDT/2017/080	New York	UNHCR	(i) Decision to separate applicant rescinded (ii) Compensation of 3 months' net base salary as moral damages	Appealed	–	–	–
UNDT/2017/087	Geneva	UNDP	(i) Decisions to abolish applicant's post and not renew his fixed-term contract rescinded (iii) Reinstatement of applicant (iii) Payment of salary retroactively to separation date (iv) Alternative to reinstatement, compensation of 3 years' net base salary (v) Compensation of $20,000 for moral damages	–	–	218 183.09 190.33	16 January 2018 18 January 2018
UNDT/2017/092	Nairobi	UNICEF	(i) Delay in payment of entitlements (ii) Compensation of $1,500 for moral damages	Appealed	–		
UNDT/2017/093	Geneva	DM	(i) Written censure and loss of two salary steps excessive disciplinary measure (ii) Loss of two steps rescinded (iii) Retroactive placement on prior step (iv) Recalculation and payment of loss of steps	Appealed	–		

United Nations Dispute Tribunal judgment No.	*Registry*	*Entity of decision-maker*	*Compensation awarded; costs ordered by the United Nations Dispute Tribunal*	*United Nations Appeals Tribunal judgment No.*	*Affirmed; vacated; rejected; compensation awarded by the United Nations Appeals Tribunal*	*Net amount paid (United States dollars unless otherwise indicated)*	*Date of payment*
UNDT/2017/094	Nairobi	UNIFIL	(i) Withholding of salary unlawful (ii) Reimbursement of salary withheld from 8 October 2016 to 15 November 2016 (iii) Compensation of $3,000 as moral damages for harm suffered as a result of erroneous salary recovery	Appealed	–		
UNDT/2017/096	Nairobi	MONUSCO	(i) Ongoing breach of right to receive proper salary and allowances between September 2015 and October 2017 (ii) Compensation for moral damages in the amount of $6,000	–	–	6 000.00	6 March 2018
UNDT/2017/100	New York	DM	(i) Rescission of decision to terminate contract for disciplinary reasons and separation rescinded (ii) Alternatively, compensation of $5,000 (iii) Payment of equivalent of net base salary from 17-30 June 2016 as material damages and $5,000 as moral damages	Appealed	–		
2015-UNAT-604	Nairobi	UNMISS	(i) Rescission of separation decision (ii) Reinstatement (iii) Alternatively, compensation of 2 years' net base salary (iv) Compensation of 3 months' net base salary each for substantive and procedural irregularities	–	Appeal not receivable	94 324.16 5 972.12	3 March 2016 14 November 2017
2017-UNAT-723	Geneva	DFS	(i) No rescission, but procedural irregularities in the selection procedure (ii) Compensation of $1 as moral damages	–	(i) Vacated, decision not to roster or select rescinded (ii) Affirmed (iii) As an alternative to rescission, compensation equal to 1/5th annual net base salary	19 709.98	27 July 2017

United Nations Dispute Tribunal judgment No.	*Registry*	*Organ of decision-maker*	*Compensation awarded, costs ordered by the United Nations Dispute Tribunal*	*United Nations Appeals Tribunal judgment No.*	*Affirmed, vacated, revised compensation awarded by the United Nations Appeals Tribunal*	*Net amount paid (United States dollars unless otherwise indicated)*	*Date of payment*
2017-UNAT-724	Geneva	MONUSCO	(i) Rescission of the decision to withdraw offer (ii) Alternatively, and for loss of opportunity, compensation of 18 months' net base salary	–	(i) Affirmed (ii) Compensation reduced to 6 months' net base salary	35 960.00	2 August 2017
2017-UNAT-742	Geneva	MINUSTAH	(i) Rescission of denial for designation of Chief Procurement Officer UNISFA (ii) Rescission of decision to withdraw designation of Chief Procurement Officer MINUSTAH (iii) Removal of certain documents from staff member's official status file and judgments to be placed in said file (iv) Compensation of $50,000 for loss of reputation	–	(i) Affirmed (ii) Affirmed (iii) Affirmed (iv) Affirmed	52 564.04	15 August 2017
2017-UNAT-774	Geneva	UNAMI	(i) Removal of offending references contained in minutes of a meeting and write to meeting participants informing them of fact-finding panel's findings not supporting damaging comments (ii) Compensation of $3,000 for procedural error (iii) Compensation of $15,000 for harm suffered	–	(i) Affirmed (ii) Vacated (iii) Reduced to $5,000	5 203.94	13 November 2015